

## Chapter IV.A

### Human Rights Development in the Region

## CHAPTER IV HUMAN RIGHTS DEVELOPMENT IN THE REGION

### A. Overview of the Human Rights Situation by Country

#### METHODOLOGY

1. The Commission decided that Chapter IV of its 2020 Annual Report should contain an overview of the human rights situation in the States of the region, with special emphasis on the rights and issues prioritized by the IACHR, as well as on the following cross-cutting themes established by the Commission in its Strategic Plan 2017-2021: Democratic Institutionalality, Human Rights Institutionalality, Access to Justice and Citizen Security; and the issues prioritized therein. Likewise, in the framework of the global health crisis caused by COVID-19, the Commission decided to request information regarding the effects generated by the pandemic on human rights, as well as regarding the impact of the measures adopted to address them. Regarding freedom of expression and economic, social and cultural rights, it should be noted that the respective Special Rapporteurships produce their annual reports, which are annexed to this Report.

2. For the preparation of this section, the IACHR took into account the information received in the exercise of its monitoring function regarding the human rights situation in 32 countries in the region during 2020. The IACHR used input from the different mechanisms through which the IACHR has followed up on the situation in the country, such as public hearings, thematic visits, requests for information under Article 41 of the American Convention and in connection with precautionary measures; as well as journalistic articles, press releases, decisions and recommendations from specialized international organizations, among others.

3. Furthermore, under the powers vested in it by Article 41 of the American Convention and Article 18 of the American Declaration on the Rights and Duties of Man, in September 2020, the Commission requested information from the member states on the rights, issues, and cross-cutting themes prioritized in the aforementioned Strategic Plan.

4. The IACHR received responses from the following 15 member states: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, Guatemala, Honduras, Mexico, Paraguay, Saint Lucia, Suriname, Trinidad and Tobago, and the United States. The IACHR is grateful for and appreciates the information sent, which has been included in this chapter.

5. The IACHR is also grateful for the information provided by institutions and civil society organizations throughout the year via the different monitoring mechanisms, which has likewise been included in this section.

#### TRENDS

6. Below, the IACHR presents an overview of the human rights situation in the region observed during 2020: a year marked by the COVID-19 pandemic and the measures implemented by States to address its spread and mitigate its effects. From the information reviewed, the IACHR identifies some trends in terms of human rights challenges, many of which remain the same as those observed in the previous year.

7. During 2020, the IACHR observed the persistence of acts of violence and discrimination against groups in special situations of exclusion, often exacerbated by the COVID-19 pandemic, such as women and girls and LGBTI persons, indigenous peoples, human rights defenders and social leaders, and Afro-descendants. The situation of persons in human mobility and persons deprived of liberty is also worrisome.

8. Older people are at extreme risk from the COVID-19 virus. The prevalence of mortality due to the virus for the population between 65-74 years is eight times higher than for people between 40-49 years. This risk has been increased in long-stay institutions where the elderly reside. In this sense, the IACHR has observed with special concern the high prevalence of infections and deaths in residences for this population. Additionally, the isolation to which older people have been subjected in several countries of the region is of greater concern in view of the particular need of this population to connect with their families.

9. The IACHR notes with concern certain trends in the context marked by the pandemic caused by the COVID-19 virus that point to illegitimate restrictions and the excessive use of police and military force in the area of citizen security in some States of the region in demonstrations and social protests that have resulted in deaths, serious injuries, and arbitrary detentions against demonstrators and third parties not involved in the protest.

10. In accordance with inter-American standards, in the context of social protests, States must ensure that their security forces have different types of weapons, ammunition, and protective equipment that allow them to adapt their reaction proportionally to the situation that requires their intervention, generating adequate and effective safeguards against arbitrariness. In this context, the Commission warns of the widespread use of so-called "less lethal weapons" in social protests by various police forces in the region and warns of the very serious consequences that their disproportionate use can have for personal integrity and even for life. In this regard, the Commission underscores the obligation of State officials to observe at all times the principles of legality, absolute necessity, and proportionality. The IACHR recalls that the actions of some individuals during demonstrations do not disallow the right of assembly for peaceful, unarmed demonstrators. States have the duty to protect the exercise of the right of assembly and freedom of expression of demonstrators, identifying and isolating those who interfere with their full exercise. The IACHR calls on States to respect and guarantee the exercise of human rights through the strengthening of democratic and participatory citizen security policies that are focused on the protection of human beings.

11. In addition, the IACHR received information on detentions, the use of physical violence, the use of firearms and weapons considered "less lethal" against persons allegedly contravening epidemic control measures. In this regard, States should avoid arbitrary detentions during restrictions on the movement of persons, and all detentions should be subject to due judicial control, in accordance with human rights standards.

12. With respect to human rights defenders, the Commission notes the persistence of high numbers of murders of human rights defenders and social leaders in the region, as well as attacks, threats, harassment, acts of intimidation, criminalization, stigmatization campaigns, and delegitimization of their work. The IACHR again notes the aggravated risk faced by human rights defenders and indigenous, land and environmental, and women's rights defenders and leaders, as well as the high levels of impunity in these cases. Likewise, patterns of violence against journalists and the media continue, and, as reported in previous years, many such crimes still go unpunished. The IACHR once again calls on the States of the region to take concrete, adequate, and effective measures in

terms of protection, prevention, investigation and access to justice in order to create an enabling and safe environment for those who defend human rights in the region. They must also ensure that human rights defenders, journalists, and the media can carry out their important work in freedom and safety.

13. With regard to the rights of indigenous peoples, the IACHR received information on the impact of the COVID-19 pandemic, in particular, shortcomings in medical care with a multicultural approach, delays in the State's response to care for these populations, and the lack of consultation and consent with regard to prevention and mitigation policies. At the same time, the Commission noted with concern high levels of violence against women in the region, aggravated by the confinement policies implemented in the context of the pandemic, as well as persistent challenges in access to sexual and reproductive health services. It also takes note of the measures adopted by some States to strengthen care and complaint mechanisms for women victims of domestic violence.

14. With respect to LGBTI persons or those perceived as such, the IACHR observed high levels of violence, including hate crimes against them, due to their sexual orientation, gender expression and/or identity, or sexual characteristics. The IACHR is particularly concerned about the existence in several Caribbean countries of laws that criminalize consensual sexual relations between adults of the same sex, called "sodomy laws" or laws on "serious indecency," as well as the persistence of so-called conversion therapies or efforts to "correct" the sexual orientation and/or gender identity of LGBTI persons or those perceived as such.

15. With regard to the rights of persons in human mobility, the IACHR noted with concern the impact that the measures adopted by the States to contain the spread of COVID-19 have reportedly had on protection and guarantees of the rights of this group of persons. In particular, the Commission noted the persistence of immigration detention practices, accelerated expulsion or deportation procedures, a decrease in resettlement actions for refugees, limitations on entry into the territories of the States and obstacles to the presentation of asylum or protection applications, or to the continuation of such processes, restrictions on access to public services, the closing of borders to groups of migrants returning to their own States of origin or nationality, the forced displacement of persons, and acts of xenophobia.

16. The Commission emphasizes that migratory phenomena, whether for economic reasons or in search of protection, require a priority response by States based on the principles of solidarity, cooperation, and shared responsibility in the context of the pandemic, with a focus on guaranteeing access to protection mechanisms and ensuring non-refoulement for persons whose lives and integrity are at risk. In this regard, the Commission welcomes the efforts by some States in the region to adopt measures to guarantee access to health care for migrants and to facilitate the continuity of administrative migration and protection procedures, such as the extension of deadlines, humanitarian aid services through the delivery of food, and the implementation of humanitarian flights to repatriate people to their countries.

17. In addition, the Commission has followed up on the serious consequences of prison overcrowding for the life, integrity, and health of persons deprived of liberty in the face of the advance of COVID-19. This situation affects to a greater extent people who belong to vulnerable groups, such as the elderly and those with chronic or autoimmune diseases. In this context, countries in the region have adopted various measures to prevent the spread of the virus, mainly by reducing the prison population. In this regard, two types of initiatives have been implemented: those that seek to apply alternative measures to imprisonment and those that seek to commute sentences through pardons and amnesties. Despite the initiatives adopted, the situation of persons deprived of their liberty in the

context of the pandemic is one of the main concerns of the Commission, as it places them at particular risk of contagion and of not having adequate medical care to treat COVID-19. The Commission reiterates the special obligation of the States of the region to adopt immediate and urgent measures to protect the life, health, and integrity of the persons in their custody. In particular, the IACHR urges the States to take actions to reduce the prison population, taking into account various recommendations of the Commission, contained mainly in [Resolution No. 01/20 on Pandemic and Human Rights in the Americas](#).

18. The IACHR also took note of the restriction of visits as a measure adopted to contain the COVID-19 pandemic. In this regard, the IACHR recalls that the restriction of visits could have serious consequences for the mental health of persons deprived of liberty. The IACHR urges States to adopt other measures, such as videoconferencing, increased telephone communication, and electronic communication, in the face of restrictions on in-person visits.

19. In view of the trends described in this section regarding human rights challenges in the region, the IACHR presents below an overview of the human rights situation by country, observed during 2020.

## ANTIGUA AND BARBUDA

- **General considerations**

20. Regarding **progress**, the IACHR highlights the measures adopted by the State to contain the spread of COVID-19, the 75% decrease of murders and other serious crimes, and the abolition of corporal punishment as a sentence for adolescents convicted of an offense.

21. With respect to **challenges**, the IACHR notes the need to establish a national human rights institution and to abolish the death penalty. The Commission expresses concern about the high rate of incarceration and the prevalence of deplorable conditions of detention for persons deprived of their liberty in the country, as well as the continued criminalization of consensual relations between same sex adults, and the culture of violence, hostility and discrimination against LGBTI persons.

22. The State did not respond to the request for information submitted for the preparation of this chapter.

- **Specific issues**

23. In the context of **COVID-19**, the IACHR highlights the measures adopted by the State to contain the spread of the virus. The first case was confirmed in Antigua and Barbuda on March 13, and on the 16th educational centers were closed and the population was required to engage in social distancing on a voluntary basis. A state of emergency was declared on April 23, 2020 under the Emergency Powers Act, Chapter 147 of the 1992 Revised Edition of the Laws of Antigua and Barbuda, in an effort to curb the spread of the virus.<sup>1</sup> The state of emergency has been extended periodically, but restrictions are being eased gradually in response to the local containment of the virus, and in an effort to promote economic recovery. During the state of emergency, one protest was reported on August 6 in the capital of St. John's in opposition to the extension of emergency powers to October.<sup>2</sup>

24. With regard **human rights institutions**, Antigua and Barbuda relies on an Office of the Ombudsman for defending the rights of its citizens<sup>3</sup> and on an Integrity Commission since 2004.<sup>4</sup> At the same time, it belongs to the Association of Integrity Commissions and Anti-Corruption Bodies of the Commonwealth of the Caribbean.<sup>5</sup> However, according to the information available, to date there is no Commission or National Human Rights Institution.

25. With regard to **democratic institutional**ity, the IACHR notes that according to the World Justice Project Rule of Law Index, the overall rule of law score for Antigua and Barbuda in 2020 increased by less than 1% this year, but it fell by one rank to 34<sup>th</sup> place out of 128 countries at the

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<sup>1</sup> Government of Antigua and Barbuda, [State of Emergency Curfew](#), April 23, 2020.

<sup>2</sup> Armed Conflict Location & Event Data Project, [Regional Overview: Central America and the Caribbean](#), August 6, 2020

<sup>3</sup> Office of the Ombudsman, [Office of the Ombudsman's Website](#)

<sup>4</sup> [Integrity Commission](#)

<sup>5</sup> Caribbean integrity commissions, ["Caribbean integrity commissions form new commonwealth body to fight corruption"](#), June 25, 2015

global level.<sup>6</sup> At the Latin America and Caribbean level, Antigua and Barbuda is ranked 7 out of 30 countries.<sup>7</sup>

26. Regarding **citizen security**, the IACHR observes that a 75% decrease in murder and other serious crimes was reported at the end of 2019 as compared to the previous year, which was the lowest the State had seen in almost 20 years.<sup>8</sup> The Commission commends the State for its continued anti-crime efforts with the removal of illegal firearms off the streets, which according to the Acting Police Commissioner was responsible for a 42.5 % decrease in violent crimes.<sup>9</sup>

27. The situation of **persons deprived of their liberty** is continuously characterized by a high rate of incarceration, and deplorable conditions of detention. Antigua and Barbuda had the third highest percentage of occupancy (191.3%) in the Caribbean, and an imprisonment rate of 302 per 100,000 inhabitants in 2019.<sup>10</sup> Likewise, the IACHR expresses its deep concern with the persistent unsanitary and unhygienic conditions that distinguish Her Majesty's Prison in St. John's, Antigua, which is the only prison in the country.<sup>11</sup> In the context of the pandemic, the IACHR urges the State to adopt measures that will guarantee the health and integrity of this population and their families<sup>12</sup>. Furthermore, the Commission draws the attention of the State to IACHR Resolution 1/20, which calls for the application of measures to reduce overcrowding through alternative measures for those in preventive detention and those who are susceptible to COVID-19, and to provide treatment to prevent the spread of the virus.<sup>13</sup>

28. Regarding the **death penalty**, the IACHR takes note that there has been no progress with removing the death penalty from the statutory books despite the fact that no execution has taken place since 1991, and no one has been sentenced to death since that time.<sup>14</sup> The Commission further notes that, as of October 2020, no one was on death row in the State.<sup>15</sup> The IACHR urges the Government to work towards the abolition of the death penalty.

29. Regarding the **rights of lesbian, gay, bisexual, trans, and gender diverse/intersex (LGBTI) persons**, the Commission has expressed its concern regarding the laws that criminalize consensual relationships between adult men of the same sex and that are enforced in the country.<sup>16</sup>

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<sup>6</sup> World Justice Project, [WJP Rule of Law Index 2020 performance](#), 2020, p. 1

<sup>7</sup> World Justice Project, [WJP Rule of Law Index 2020 performance](#), 2020, p.1. The four universal principles of law of accountability, just laws, open government and accessible and impartial dispute resolution were applied in determining the rank, p.10.

<sup>8</sup> The Loop St. Lucia, [Antigua & Barbuda police: 75% decrease in murder recorded in 2019](#), January 9, 2020.

<sup>9</sup> The Loop St. Lucia, [Antigua & Barbuda police: 75% decrease in murder recorded in 2019](#), January 9, 2020.

<sup>10</sup> World Prison Brief, [Antigua and Barbuda](#), 2020.

<sup>11</sup> Antigua NewsRoom, [LETTER: Prison Conditions At 1735](#), June 15, 2020.

<sup>12</sup> IACHR, Press Release, No. 066/20, [The IACHR urges States to guarantee the health and integrity of persons deprived of liberty and their families in the face of the COVID-19 pandemic](#), March 31, 2020.

<sup>13</sup> IACHR, [Resolution No. 01/2020, Pandemic and Human Rights in the Americas](#), April 10, 2020, para. 45.

<sup>14</sup> Amnesty International, [Global Report: Death Sentences and Executions](#), April 2020, p.14.

<sup>15</sup> Meeting with the Death Penalty Project on October 27, 2020. See Antigua Observer, [The death penalty is not a deterrent for criminals](#) 24 August 2020.

<sup>16</sup> Sexual Offences Act 1995 (Act No. 9), Section 12 (Sodomy); and BBC News, [The region which legislates who you can love](#), January 1, 2020.

The Commission regrets that, despite the recommendations made, these regulations remain in force, in violation of the State's international obligations regarding the right to equality and non-discrimination.<sup>17</sup> In relation to the above, the IACHR recalls that the maintenance of these laws generates a culture of violation, hostility, discrimination, as well as serious violations against LGBTI persons.<sup>18</sup>

30. Likewise, the Commission has received worrying information about the so-called "conversion therapies" or efforts to "correct" the sexual orientation and gender identity of LGBTI people or those perceived as such, in the Caribbean States, which include Antigua and Barbuda. These practices, which are generally carried out clandestinely, seriously violate human rights and cause mental, physical, or sexual harm.<sup>19</sup>

31. With regard to **children and adolescents**, the Commission commends the State on the abolition in law of corporal punishment as a sentence for those convicted of an offense.<sup>20</sup> However, corporal punishment is still lawful in the home, children's homes, orphanages, and places of safety, and the Education Act 2008 provides for corporal punishment in educational settings (public and private). The IACHR calls on the State to prohibit any form of violence and of corporal punishment of children and adolescents in all settings.

32. With regard to **human mobility**, the Commission notes that in December 2020 a draft amendment had been sent to Parliament entitled the Migration and Passport Law of 2014 (*Immigration and Passport Act*). The proposed amendment would modify section 51 by replacing the word "and" with "or". Thus, a discretionary power would be granted to the Director of Migration who could choose between: i) require the person in an irregular situation to voluntarily leave the country, o ii) have them arrested and brought before a judge to order their deportation.<sup>21</sup>

## ARGENTINA

- **General considerations**

33. The Commission takes note of significant **progress** made by the State of Argentina on legal initiatives on gender issues; implementation of policies for the inclusion of population groups, such as indigenous peoples, Afro-descendent communities, and persons with disabilities, as well as against discrimination. It also notes important progress on issues of memory, truth, and justice.

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<sup>17</sup> IACHR, [Advances and Challenges towards the recognition of the rights of LGBTI persons in the Americas](#), December 7, 2018, paras. 240 – 242.

<sup>18</sup> IACHR, [Advances and challenges towards the recognition of the rights of LGBTI persons in the Americas](#), December 7, 2018, paras. 240 – 242; and Antigua Observer, [Being LGBTQ in the Caribbean; Sentencing of transgender woman's killer throws spotlight on discrimination](#), July 21, 2020.

<sup>19</sup> IACHR, [Hearing on the Situation of the Human Rights of LGBTI Persons in the Caribbean](#), Session No. 178, December 8, 2020; OHCHR, ["Conversion therapies" can amount to forms of torture and should be banned, says UN expert](#), July 13, 2020.

<sup>20</sup> Global Initiative to end all Corporal Punishment against Children, [Country Report for Antigua and Barbuda](#), May 2020.

<sup>21</sup> Legal Affairs Laws Website, Antigua and Barbuda, [The Immigration and Passport \(Amendment\) Bill, 2020 - No. \[Editor: CHECK NO.?\] of 2020](#), February 25, 2020. Legal Affairs Laws Website, Antigua and Barbuda, [The Immigration and Passport Act, 2014 - No. 6 of 2014](#), March 12, 2014.



34. Regarding **challenges**, the IACHR notes with concern the reported cases of police violence and excessive use of force during the context of the COVID-19 pandemic. It also notes the increase in femicides during the first eight months of 2020.

35. On September 29, 2020, the State submitted a response to the request for information to be used in the preparation of this chapter.<sup>22</sup>

- **Specific topics**

36. In the context of the **COVID-19** pandemic, the IACHR highlights the agility of the measures adopted by the State of Argentina to contain the spread of the virus, which took into consideration the recommendations established in IACHR resolutions No. 01/2020 and No. 4/2020. After the first case of COVID-19 was confirmed in the country on March 3, 2020, a sanitary emergency was declared on March 12, 2020, establishing preventive and mandatory social isolation<sup>23</sup>; subsequently, educational centers were closed, and on March 19, 2020, a mandatory quarantine was declared at the national level with the closure of borders.<sup>24</sup> In addition, the State set up an assistance program for Argentines living abroad; the creation of a provincial financial emergency program to support provincial finances and cover the needs caused by the COVID-19 epidemic; budgetary modifications to increase the health and social protection budget; regulation of access to health information; creation of the health personnel protection program; construction of modular hospitals; establishment of the health emergency family income program and the extraordinary health emergency subsidy; creation of the critical and direct assistance program for family, campesino, and indigenous agriculture; and the prohibition of dismissals without just cause between March 31 and July 31, 2020.<sup>25</sup> Subsequent to the implementation of these measures, a strategy for the gradual reactivation of the economy and social sectors of the country was implemented, which included preventive isolation and requiring a negative polymerase chain reaction (PCR) test for entry into some provinces. The Commission takes note of public information that states that, on December 29, 2020, the vaccination plan began with the application of the first doses to health personnel<sup>26</sup>.

37. The IACHR emphasizes that Argentina has a solid **human rights institutional framework**. In this sense, the IACHR highlights the important human rights institutions created in Argentina. Nonetheless, the Commission notes that, in the period under review, the head of the Office of the Ombudsman of the Nation has not yet been designated, a position that has been vacant since 2009.

38. On the other hand, the Commission notes that, during the year 2020, a Gender and Diversity Area and the Sexual Diversity, Mainstreaming, and Dissemination Program were created within the framework of the "Program for Monitoring and Evaluation of the Sustainable Development

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<sup>22</sup> Republic of Argentina, National Executive Branch, Note No-2020-65433091-APN-DNAJIMDDHH#MJ, document submitted to the IACHR, September 29, 2020.

<sup>23</sup> Official Gazette of the Argentine Republic, "[Extends the scope of entry to the national territory](#)", March 26, 2020.

<sup>24</sup> Ministry of Health of Argentina, "[Decreto de necesidad y urgencia](#)"; see also: Boletín oficial de la República Argentina, "[Aislamiento social, preventivo y obligatorio](#)", March 19, 2020.

<sup>25</sup> Ministry of Justice and Human Rights, Argentina, "[Medidas del Estado argentino para la protección de los Derechos Humanos durante la pandemia del Covid-19](#)", August 27, 2020.

<sup>26</sup> Casa Rosada, "[Comenzó la campaña nacional de vacunación contra el coronavirus](#)", December 29, 2020.

Goals, Agenda 2030."<sup>27</sup> Likewise, the "National Cabinet for the Mainstreaming of Gender Policies" was created within the Executive Branch.<sup>28</sup> Its function is to reach consensus on actions to incorporate the gender perspective in all policies promoted by the Government. In this context, the IACHR welcomes the initiation of a permanent and mandatory training program on gender violence for public servants in all three branches of government.<sup>29</sup>

39. Similarly, the IACHR welcomes the approval of the National Plan of Action against Gender-Based Violence 2020-2022, which aims at an intersectional and comprehensive approach to public policies aimed especially at vulnerable populations.<sup>30</sup> It also highlights the presentation of different lines of action for the development of public works with a gender perspective throughout the country and the approval in the Senate of the bill on voluntary interruption of pregnancy (IVE) and the passing of the National Law on Comprehensive Health Care and Attention during Pregnancy and Early Childhood (Thousand Days Plan), an initiative to reduce malnutrition and guarantee Economic, Social, Cultural and Environmental Rights (ESCER) during pregnancy and children's first three years of life.<sup>31</sup> Similarly, the Commission welcomes the recommendations of the Ministry of Women, Gender, and Diversity for provincial and municipal governments on gender and diversity policies in the context of the COVID-19 health emergency.<sup>32</sup>

40. As regards discrimination, the IACHR notes that a new National Plan against Discrimination is being drafted, to be implemented by the National Institute against Discrimination, Xenophobia and Racism (INADI) in 2022-2025<sup>33</sup>. Likewise, the IACHR highlights the creation of three assistance programs targeting the population with disabilities<sup>34</sup> and the creation of the Committee on Ethics and Human Rights during the COVID-19 Pandemic.<sup>35</sup> Additionally, in Tucumán, the Educational Center specializing in Human Rights was inaugurated to expand actions undertaken in this area within the framework of a "Pedagogy of Memory."<sup>36</sup>

41. For its part, the Secretariat for Human Rights launched a program to train agents of the National Directorate of Migration (DNM) in human rights.<sup>37</sup> It also prepared a document presenting various State measures for the protection of human rights during the COVID-19 pandemic based on the responses to the recommendations of international and regional human rights

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<sup>27</sup> National Ombudsman, "[Sexual diversity program, mainstreaming, and dissemination](#)", January 8, 2020.

<sup>28</sup> Official Bulletin of the Republic of Argentina "[Gabinete Nacional para la transversalización de las políticas de Género](#)", August 17, 2020.

<sup>29</sup> Within the framework of Law No. 27,499, known as the Micaela Law.

<sup>30</sup> Ministry of Women, Gender, and Diversity, "[National Plan of Action against Gender-Based Violence](#)", June 2020.

<sup>31</sup> IACHR, [Tweet](#), December 30, 2020.

<sup>32</sup> Ministry of Women, Gender, and Diversity, "[Recommendations for provincial and municipal governments on gender and diversity policies in the context of the Covid-19 health emergency](#)", April 15, 2020.

<sup>33</sup> Ministry of Justice and Human Rights, "[New National Plan against Discrimination](#)".

<sup>34</sup> Ministry of Health, "[What measures is the Government taking?](#)"

<sup>35</sup> Ministry of Health, "[What measures is the Government taking?](#)"

<sup>36</sup> Ministry of Justice and Human Rights, "[Se inauguró el Centro educativo especializado en derechos humanos Ana María Sosa del Espacio para la Memoria Escuelita de Famaillá](#)", September 16, 2020.

<sup>37</sup> Ministry of Justice and Human Rights, "[Training in human rights for agents of the National Directorate of Migration](#)", May 15, 2020.

organizations.<sup>38</sup> It also presented the Federal Network of Municipalities for the strengthening of human rights.<sup>39</sup>

42. In the area of **citizen security**, the IACHR takes note of the registration, according to available information, of more than 30 cases of institutional violence and excessive use of force in Argentina in the context of the COVID-19 pandemic.<sup>40</sup> In particular, the IACHR noted with concern the alleged murder of Luis Espinoza in Tucumán on May 22, 2020, after he was reported missing on May 15, 2020, following a police operation; as well as the acts of violence by security forces agents against the Qom community in Fontana, in Chaco on May 31, 2020, where several young people who were detained denounced acts of aggression, including torture and sexual violence. The Commission also followed up on the alleged forced disappearance of Facundo Astudillo Castro in the Province of Buenos Aires, who was the subject of precautionary measures granted by the IACHR on August 1, 2020. On September 2, 2020, the Commission learned of the identification of his corpse.<sup>41</sup> The Commission urges the State to continue with the investigations and provide comprehensive and timely reparation to the victims and their next of kin. In this regard, the IACHR encourages the State to review its institutional policy on the use of force, so as to prevent a recurrence of such events and to align its interventions with international standards on the matter.

43. Regarding **women's rights**, the IACHR took note of and welcomed the approval by the Senate of the Law on Access to the Voluntary Interruption of Pregnancy and Post-abortion Care, which seeks to reduce morbidity and mortality among women and people of other gender identities with the capacity to bear children. Along these lines, the Commission also welcomed the approval of the National Law on Comprehensive Health Care and Attention during Pregnancy and Early Childhood.<sup>42</sup> Likewise, the IACHR welcomes the program to support and protect persons at risk of gender-based violence, regulated by Decree 734/2020, promoted by the Ministry of Women, Gender, and Diversity and the National Social Security Administration (Anses). This program reportedly aims to promote the autonomy of women and LGBTI people who are at accredited risk of gender-based violence.<sup>43</sup>

44. Notwithstanding the aforementioned institutional advances in terms of regulations or gender violence programs, the Commission expresses its concern about the increase in femicides in Argentina during 2020. According to information in the public domain, 208 femicides were registered between January 1, 2020 and August 30, 2020.<sup>44</sup> The Commission alerts the State of Argentina to the increase in gender-based violence in the context of the pandemic and calls for the adoption of prevention and protection measures for women.

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<sup>38</sup> Ministry of Justice and Human Rights, "[Medidas del Estado argentino para la protección de los derechos humanos durante la pandemia del covid-19](#)", September 25, 2020.

<sup>39</sup> Ministry of Justice and Human Rights, "[Federal Human Rights Agenda](#)", October 30, 2020.

<sup>40</sup> Amnesty International, "[The Use of Force in the Context of COVID-19. Violence as a State response](#)", August 11, 2020, p. 3.

<sup>41</sup> Amnesty International, "[The Use of Force in the Context of COVID-19. Violence as a State response](#)", August 11, 2020, p. 3.

<sup>42</sup> CNN, "[Argentina Senate approves bill-legalizing abortion](#)", December 30, 2020.

<sup>43</sup> La Vanguardia, "[Argentina presents economic assistance program for battered women](#)", September 25, 2020.

<sup>44</sup> El País, "[Argentina registers 208 femicides in eight months](#)", August 31, 2020.

45. Regarding the **rights of the elderly**, the Commission highlights the measures adopted by the Argentine State through Resolution 9/20 of the Federal Chamber of Criminal Cassation<sup>45</sup> in which, in order to alleviate prison overcrowding and reduce risk factors by facilitating health care for COVID19 cases, it recommends alternatives to incarceration for the elderly – as well as other groups in vulnerable situations - such as house arrest. Likewise, the IACHR recalls that prison benefits and alternatives to imprisonment for persons convicted of serious human rights violations and crimes against humanity should be evaluated based on a more demanding analysis and requirements in accordance with international human rights obligations.<sup>46</sup>

46. With regard to **memory, truth, and justice**, the Commission welcomes the amendments to the Civil and Commercial Code aimed at recognizing the imprescriptibility of actions for compensation for damages arising from crimes against humanity.<sup>47</sup> The Commission also appreciates the efforts of the Argentine State to resume the trials of serious human rights violations during the pandemic.<sup>48</sup> According to official information,<sup>49</sup> as of December 4, 2020, there were 250 sentences related to crimes against humanity since 2006, in which 1,013 people were convicted and 164 acquitted.

47. Likewise, the Commission notes that a number of human rights organizations have repudiated house arrests granted, since some of them could render sanctions imposed for crimes against humanity ineffective.<sup>50</sup> In this regard, and as noted above, the IACHR reminds the Argentine State of its Resolution 1/2020 and to evaluate requests for prison benefits and alternatives to prison sentences based on especially rigorous analysis in the case of persons convicted of serious human rights violations and crimes against humanity. In addition, the Commission notes with concern the various attacks on memory sites, and calls on the Argentine State to investigate the persons responsible for those acts.<sup>51</sup>

48. In relation to the rights of **indigenous peoples**, the State reported on some measures adopted to address the situation of indigenous peoples in the context of the pandemic. It reported on the approval of measures to carry out a survey of the number of indigenous people who require the

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<sup>45</sup> Federal Chamber of Criminal Cassation, [Decision 9/20 paragraph 2f](#), April 13, 2021.

<sup>46</sup> IACHR, [Resolution 1/2020 'Pandemic and Human Rights in the Americas'](#), April 10, 2020, para. 46.

<sup>47</sup> Parliamentary, [The imprescriptibility of compensation for crimes against humanity was sanctioned](#), November 11, 2020.

<sup>48</sup> Página 12, [Coronavirus y dictadura: el Plan para reanudar los juicios de lesa humanidad](#), May 4, 2020; El Eco, [Por medios electrónicos, se reanudan los juicios por delitos de lesa humanidad en varias provincias](#), June 14, 2020.

<sup>49</sup> Ministerio Público Fiscal, [Informe estadístico de la Procuraduría de Crímenes contra la Humanidad sobre el proceso de juzgamiento iniciado en 2006](#), December 30, 2020.

<sup>50</sup> Página 12, [Nast está bien cuidado](#), April 19, 2020; El Tucumano, [Exigen revocar la prisión domiciliaria a condenado por delitos de lesa humanidad](#), June 2, 2020; El País, [Argentina conced la prisión domiciliaria a un médico del mayor centro clandestino de la dictadura](#), April 30, 2020; El Diario de la Pampa, [Repudian la excarcelación de un represor](#), August 21, 2020; El ciudadano, [Repudian la libertad condicional del represor "Curro" Ramos: "Es la aplicación del 2x1 en Santa Fe"](#), August 31, 2020; El Destape, [Les a humanidad: Casación volvió a otorgar la domiciliaria a dos represores condenados](#), October 16, 2020.

<sup>51</sup> El Litoral, [Volvieron atacar a un mural que recuerda a víctimas de la Dictadura](#), March 17, 2020; Diario 1558, [Atacaron nuevamente el mural en homenaje a mujeres víctimas de la dictadura](#), May 30, 2020; El Litoral, [Repudian ataque contra mural en homenaje a víctimas de la dictadura](#), June 2, 2020; Defensoría del Pueblo, [La Defensoría repudia el vandalismo a los pañuelos de las Madres de Plaza de Mayo](#), June 24, 2020; Que pasa web, [Vandalizaron locales de La Cámpora y el PC en San Martín](#), July 22, 2020; Municipality of Córdoba, [Restituyeron la placa que recuerda a la cochera de la Municipalidad como centro de detención clandestino](#), August 31, 2020; ANB, [Repudio por las pintadas sobre los pañuelos en el Centro Cívico](#), November 30, 2020; Página 12, [Bariolche: Mothers' handkerchiefs vandalized at "Pro-Lifemarch"](#), December 1, 2020.

economic benefit known as Emergency Family Income. Another measure adopted was the creation of an assistance program for family, campesino, and indigenous agriculture, which would benefit individuals, communities, or groups of producers who are part of the National Registry of Family Agriculture and which would consist of inputs, tools, and materials to enable them to continue their productive activities. It also reported on materials prepared by the Ministry of Health to address health in indigenous communities and territories with a participatory and intercultural approach.<sup>52</sup>

49. According to information obtained by the IACHR, the COVID-19 pandemic and quarantine measures have exacerbated the socioeconomic inequality, disregard/marginalization (*invisibilización*), and discrimination that indigenous peoples in Argentina have historically faced. This includes economic impacts caused by the interruption of their economic activities and sources of income. At the same time, there have been reports of the continuation of extractive activities in their territories that are considered essential and that have generated environmental and health impacts, in addition to threatening their already precarious land tenure. Reportedly, the lack of safe sources of water for consumption and as a measure of protection against the pandemic is a matter of serious concern for indigenous peoples. The IACHR expressed particular concern regarding the situation of children and adolescents of the Wichí<sup>53</sup> people, who have been affected by the lack of water and food, as well as inadequate access to health care.<sup>54</sup> In this regard, the Commission also notes that economic inequalities have manifested themselves in school dropouts due to indigenous students' lack of access to virtual education.<sup>55</sup>

50. Regarding the rights of **people of African descent** and protection against racial discrimination, the Commission welcomes the establishment of the Commission for the Historical Recognition of the Afro-Argentine Community by the National Institute against Discrimination, Xenophobia and Racism (INADI). According to official data, the creation of this commission seeks to initiate a process of reparation, by setting up a focal point within the National Public Administration to address the specific demands and proposals of Afro-descendants in Argentina.<sup>56</sup>

51. On the other hand, the Commission takes note of publicly available information on the persistence of racism in Argentina.<sup>57</sup> A recent INADI report states that between 2008 and 2019, 5,177 complaints of structural racism were received, representing 19.2% of all types of complaints. This same study showed that, of the complaints for structural racism, the condition of being a Latin American migrant accounts for 32%; physical appearance 19%; economic status 16%; indigenous peoples 7%; and Afro-descendants 2%. The areas where most of these cases of racial discrimination are reported to have occurred are the workplace (24%) and public administration (13%). According to

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<sup>52</sup> Ministry of Justice and Human Rights, Argentina, [Medidas del Estado argentino para la protección de los Derechos Humanos durante la pandemia del Covid-19](#), August 27, 2020, p. 52.

<sup>53</sup> IACHR, [Tweet](#), February 17, 2020.

<sup>54</sup> Defensora de los Derechos de las Niñas, Niños y Adolescentes de Argentina, Informe de situación: Niñas niños y adolescentes de comunidades indígenas del Chaco Salteño, Anexo a Nota S/N, IACHR Archive, May 16, 2020, pp. 7, 9 and 11.

<sup>55</sup> Página 12, [Coronavirus, pueblos originarios y un genocidio sin reparación](#), July 13, 2020.

<sup>56</sup> Government of Argentina, [Commission for the Historical Recognition of the Afro-Argentine Community](#), November 9, 2020.

<sup>57</sup> La Nación, [Afroargentinos."Racism is still an everyday occurrence in our society,"](#) October 1, 2019.

the study, 50% of the complaints were made by women (2,589); 46.5% by men (2407); and 3.5% by institutions (181).<sup>58</sup>

52. Regarding the rights of **lesbian, gay, bisexual, trans, gender diverse and intersex (LGBTI) persons**, the Commission welcomes the progress made in this area. In this regard, the Commission welcomes the publication of Decree No. 721/2020, which establishes that, in the national public sector, at least 1% of positions must be filled by trans persons, regardless of their civil registry status, as well as the creation of an employment platform for trans persons and the possibility of access, without age limit, to Progresar scholarships.<sup>59</sup>

53. Likewise, in the context of the pandemic, the Commission welcomes the quarantine exemption for women and LGBTI persons who intend to denounce an act of violence;<sup>60</sup> likewise, it welcomes the assistance program, a subsidy for LGBTI persons threatened with violence.<sup>61</sup> The Commission welcomes the legislative initiatives to ensure the comprehensive protection of sexual characteristics, gender identity, and public policies with a diversity perspective.<sup>62</sup>

54. The IACHR highlights the progress made in the investigation, trial, and punishment of acts of violence and discrimination, including the conviction handed down by the Salta Trial Court against the person responsible for the murder of a trans woman, and progress in the investigations of other cases of violence and discrimination against trans<sup>63</sup> persons. However, the Commission notes with concern reports of at least 14 murders against LGBTI persons.<sup>64</sup> In this regard, the Commission pronounced on the murder of Roberta, a trans woman and recalled the State's obligation to determine whether the crime was based on gender identity or expression.<sup>65</sup> Likewise, the IACHR notes with concern the murders of Verónica Dessio and Enzo Aguirre.<sup>66</sup> The Commission has likewise taken note

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<sup>58</sup> INADI, [Racismo estructural en las denuncias radicadas en INADI](#), August 28, 2020. Report prepared by the Coordination of Research and Observatories on the complaints filed with the agency during the period 2008-2019.

<sup>59</sup> IACHR, [Tweet](#), September 5, 2020; Agencia Presentes, [Travestis y trans podrán acceder a becas Progresar sin límite de edad](#), March 3, 2020; Perfil, [Crean plataforma de empleo para personastrans](#), September 23, 2020.

<sup>60</sup> Presents Agency, [Women and LGBT+ people who come out to report violence are exempted from quarantine](#), April 5, 2020.

<sup>61</sup> The Digital Agora, [Acompañar Program: subsidy for LGBTI+ people at risk of gender-based violence](#), September 30, 2020.

<sup>62</sup> Grupo La Provincia, [Presentaron en Diputados proyecto de Protección Integral de las Características Sexuales](#), November 2, 2020; Diario El Ciudadano y la Región, [La Legislatura dio media sanción a la ley Integral Trans y a la ley de Políticas Públicas LGBTI](#), November 5, 2020.

<sup>63</sup> La Gaceta Tucumán, [Comienza en Salta el juicio por el crimen de una mujer trans asesinada a golpes](#), August 1, 2020; Agencia Presentes, [La Justicia de Salta condenó a prisión perpetua al transfemicida de Mirna Di Marzo](#), August 12, 2020; [Las mujeres trans otra vez son las más afectadas por los crímenes de odio](#), October 13, 2020; La Voz, [Detienen a un empresario por el crimen de una mujer trans en Tucumán](#), November 11, 2020; Página12, [La Fiscal se reunió con organizaciones LGBTI](#), November 21, 2020 and Cuarto Salta a Diario, [Golpes, burlas y agravios | Policías de Salta a juicio por abusar de mujeres trans](#), December 1, 2020.

<sup>64</sup> LGBT Hate Crime Observatory, [2020 Report](#), accessed February 5, 2021.

<sup>65</sup> IACHR, [IACHR deploras the murder of Roberta, Peruvian trans woman, in Argentina](#), February 4, 2020.

<sup>66</sup> Crónica, [Crimen de Enzo Aguirre: cae sospechoso de matar al joven gay en un hotel de Retiro](#), December 24, 2020; Agencia Presentes, [Exigen justicia por Verónica Dessio, activista lesbiana asesinada en su casa de La Plata](#), December 28, 2020.

with concern of reports of acts of physical and sexual violence against trans women,<sup>67</sup> including by police officers.<sup>68</sup>

55. With regard to **persons with disabilities**, the IACHR welcomes the actions taken by the State in the framework of measures to mitigate the COVID-19 pandemic, especially the inclusion of persons with disabilities as a risk group, which involved specific protection policies, in addition to special movement permits, measures to continue rehabilitation treatment, virtual processing of certificates, and socioeconomic assistance programs. Likewise, according to the information provided by the State, policies have been put in place to guarantee access to information for persons with disabilities. In that context, the National Agency for Disability opened various channels for access to information on COVID-19 and drew up various documents for dealing with persons with disabilities in the context of the pandemic. On the other hand, the Commission has been informed about the need to advance in deinstitutionalization policies for people with disabilities and in the development of a support system that makes community life possible for these people.<sup>69</sup>

56. With regard to the rights of **persons in human mobility**, the Commission noted with concern the suspension of asylum procedure hearings. This is despite the fact that e-mails have been made available to channel queries and the possibility of requesting asylum through digital media.<sup>70</sup> Likewise, the IACHR learned that a portion of the migrant population could not access the economic assistance policy during the pandemic (emergency family income or IFE) because they could not prove at least two years of regular residence.<sup>71</sup> In this regard, the Commission recalls that migrants and their families must be fully integrated into national recovery plans, and States must address pandemic recovery in a more inclusive and sustainable manner, while implementing their public health regulations.<sup>72</sup>

57. Regarding **human trafficking**, the IACHR takes note of the signing of the inter-agency cooperation agreement to prevent and eradicate human trafficking in Misiones, a province in the Tri-Border area (Argentina, Brazil, and Paraguay).<sup>73</sup> In addition, official figures from the National Program for the Rescue and Support of Victims of Trafficking (PNR) indicate that, as of August 31, 2020, 446 victims of human trafficking had been rescued; of these, 349 were rescued after the beginning of the measures implemented to maintain social, preventive, and mandatory isolation.<sup>74</sup>

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<sup>67</sup> Homosensual, [Mia Retacco, transgirl, defends herself from her attacker and is jailed](#), November 13, 2020.

<sup>68</sup> IACHR, [IACHR condemns acts of physical and sexual violence allegedly committed by police officers against a transwoman detained in Jujuy](#), April 21, 2020; Agencia Presentes, [Policías de Jujuy detuvieron a chica trans por violar cuarentena y la abusaron sexualmente](#), April 20, 2020; AFP, [Trabajadoras sexuales en Argentina denuncian violencia policial](#), September 21, 2020.

<sup>69</sup> IACHR. Regional Hearing: [Situation of the Human Rights of Persons with Disabilities in the face of the COVID-19 Pandemic in the Americas](#), 177th Session, October 9, 2020.

<sup>70</sup> Government of Argentina, [Comisión Nacional para los Refugiados - Canales de atención no presencial -Co.Na.Re](#), March 2020.

<sup>71</sup> Government of Argentina, [COVID-19 - Emergency Family Income](#). The Citizen, [Critical situation of quarantined migrants: 80% did not receive social assistance of any kind](#), May 10, 2020.

<sup>72</sup> IACHR, Press Release 303/20 - [Migrants must be included in all COVID-19 recovery plans - regional and UN experts](#), Washington D.C., December 17, 2020.

<sup>73</sup> Misiones online, [Signed inter-institutional cooperation agreement to prevent and eradicate human trafficking in Misiones](#), September 23, 2020.

<sup>74</sup> Government of Argentina, [15,420 trafficking victims were rescued in the last 12 years](#), September 23, 2020.



58. Regarding the rights of **persons deprived of liberty**, within the framework of COVID-19, the State informed the IACHR about recommendations for the prevention of contagion in the establishments of the Federal Penitentiary Service and in the Closed Regime Centers of the Juvenile Penal System in line with international recommendations.<sup>75</sup> For its part, the National Committee for the Prevention of Torture (CNPT) informed the IACHR about the restrictions suffered by this population due to the measures adopted in the face of the health emergency, including the suspension of visits, recreational, work and educational activities, and temporary releases on bail.<sup>76</sup> These restrictions are said to have led to protests and complaints by persons deprived of liberty in various provinces.<sup>77</sup> In this context, the IACHR noted in a press release that five people had died and another ten had been injured as a result of riots in protest against health measures in two prisons in the province of Santa Fe<sup>78</sup>.

59. Likewise, the IACHR learned about deficient conditions of confinement, particularly in police stations and detention centers, and about major obstacles to access to adequate health care.<sup>79</sup> In addition, according to the CNPT, police stations, police lockups, and other non-penitentiary spaces were regularly used for the prolonged detention of persons in various provinces.<sup>80</sup> This was due to the restrictions during the national health emergency on the admission of new prisoners to prison units.<sup>81</sup> In this regard, according to data from the CNPT, the most worrying case was that of the province of Buenos Aires, where between March and May 4,718 people in that situation were detained: a 19% increase in the number of people detained in police stations compared to 2019.<sup>82</sup> Similarly, the Ombudsman's Office of the Autonomous City of Buenos Aires warned about persons deprived of liberty being held in the city's prisons (*alcaldías*) and their consequent overcrowding.<sup>83</sup> This situation reportedly meant that persons apprehended and detained in flagrante delicto have had to remain in **police stations of the City Police while waiting for a space in the prisons**<sup>84</sup>. In this regard, the IACHR calls on the State to ensure dignified and adequate conditions of detention in detention

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<sup>75</sup> Undersecretariat for Protection and International Liaison in Human Rights, Secretariat of Human Rights, Ministry of Justice and Human Rights of the Nation. Measures of the Argentine State for the protection of Human Rights during the COVID-19 pandemic. September 29, 2020. p. 55

<sup>76</sup> National Committee for the Prevention of Torture. Situation of persons deprived of liberty in Argentina during 2020. January 13, 2021.

<sup>77</sup> National Committee for the Prevention of Torture. Situation of persons deprived of liberty in Argentina during 2020. January 13, 2021.

<sup>78</sup> IACHR, Press Release 66/20 – The IACHR urges States to guarantee the health and integrity of persons deprived of liberty and their families in the face of the COVID-19 pandemic, Washington, D.C., March 31, 2020.

<sup>79</sup> National Committee for the Prevention of Torture, Situation of persons deprived of liberty in Argentina during 2020, January 13, 2021.

<sup>80</sup> National Committee for the Prevention of Torture, Annual Report to the Bicameral Commission of the Ombudsman's Office, 2020, pp. 10 – 11.

<sup>81</sup> National Committee for the Prevention of Torture, Annual Report to the Bicameral Commission of the Ombudsman's Office, 2020, pp. 10 – 11.

<sup>82</sup> National Committee for the Prevention of Torture, Annual Report to the Bicameral Commission of the Ombudsman's Office, 2020, pp. 10 – 11.

<sup>83</sup> Defensoría del Pueblo de la Ciudad Autónoma de Buenos Aires, Agravamiento de situación en las alcaldías de la Policía de la Ciudad de Buenos Aires, June 2, 2020.

<sup>84</sup> Defensoría del Pueblo de la Ciudad Autónoma de Buenos Aires, Agravamiento de situación en las alcaldías de la Policía de la Ciudad de Buenos Aires, June 2, 2020.



centers. In particular, it urges the State, in the context of the Covid-19 pandemic, to reduce the population deprived of their liberty by using alternatives to incarceration.

60. With regard to the rights of **children and adolescents**, the IACHR congratulated the State on the appointment of the first national ombudswoman for children and adolescents, a position created in 2005 to which no one had yet been appointed.<sup>85</sup> Likewise, the IACHR notes with satisfaction the public policies and initiatives to protect the rights of children and adolescents during the health emergency, according to information provided by the State. In particular, the IACHR takes notes of the measures adopted regarding access to educational content, recreational outings, the permission to travel in order to assist children and adolescents, and the health care manuals and guides for preventing the infection of children and adolescents during the pandemic.<sup>86</sup>

61. According to data from UNICEF Argentina, 41% of households with children and adolescents, i.e. 2.1 million, stated that their labor income had decreased between October and November 2020.<sup>87</sup> Likewise, UNICEF estimated that 8.3 million Argentinean children and adolescents would end the year in poverty, which corresponds to 63% of the total population in that age group and an increase of 18% in relation to the previous year.<sup>88</sup> In addition to the above, the IACHR notes with concern that 30.5% of children and adolescents were reportedly in a situation of food insecurity in the months prior to the COVID-19 pandemic; a situation that undoubtedly worsened as a result of the health emergency triggered by the virus.<sup>89</sup>

62. Regarding freedom of expression, the Office of the Special Rapporteur welcomes the decision of the Federal Court of Appeals of Mar del Plata that revoked the prosecution of the Clarín newspaper journalist, Daniel Santoro.<sup>90</sup> Since 2019, the Federal Justice had been investigating his alleged participation in illegal activities carried out by a criminal organization. On October 21, 2020, Daniel Santoro's indictment had been expanded accusing him of being a member of an "illicit parastatal association" devoted to illegal espionage and domestic intelligence. In revoking his indictment, the Court considered that "the facts attributed to Santoro could only be framed within a neutral exercise of his professional activity, which -rightly or wrongly- cannot in themselves, or even in the circumstantial context referred to, be considered direct contributions to a criminal plan."<sup>91</sup>

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<sup>85</sup> IACHR, [Tweet](#), March 4, 2020

<sup>86</sup> Ministry of Justice and Human Rights, Argentine State Measures for the Protection of Human Rights during the COVID-19 Pandemic, Annex to Note NO-2020-65433091-APN-DNAJIMDDHH#MJ, IACHR File, September 29, 2020, pp. 38-41.

<sup>87</sup> UNICEF, [Population Perceptions and Attitudes Survey: the impact of the COVID-19 pandemic on families with children and adolescents, Third Wave: results report](#), November 2020, p. 28.

<sup>88</sup> TÉLAM, [El 2020 finalizará con casi 63% de la infancia en situación de pobreza en la Argentina](#), August 5, 2020.

<sup>89</sup> Universidad Católica Argentina, Observatorio de la Deuda Social Argentina, Barómetro de la Deuda Social de la Infancia, [Condiciones de vida de las infancias pre-pandemia COVID-19: evolución de las privaciones de derechos 2010-2019](#), May 2020, p. 17.

<sup>90</sup> Infobae, [Causa D'Alessio: la Cámara Federal de Mar del Plata revocó el procesamiento del periodista Daniel Santoro](#), December 11, 2020; Perfil, [Revocan el procesamiento de Daniel Santoro: el fallo completo de la Cámara de Mar del Plata](#), December 12, 2020; LatAm Journalism Review, [Fallo a favor de periodista Daniel Santoro sienta un precedente en la protección del periodismo de investigación en Argentina](#), December 22, 2020; ADEPA, [Adepa destaca los conceptos del fallo que revocó el procesamiento de Daniel Santoro](#), December 15, 2020.

<sup>91</sup> Poder Judicial de la Nación, Cámara Federal de Mar del Plata, [Santoro, Daniel y otros por Asociación Ilícita - Extorsión](#), December 11, 2020.

## BAHAMAS

- **General considerations**

63. Regarding **progress** made by the Commonwealth of The Bahamas, the Commission takes note of the measures implemented to contain the spread of COVID-19 despite the fact that the country was still recovering from the devastation of hurricane Dorian, and of the overall decrease of 3% in the commission of serious crimes. The IACHR observes that children of Bahamian fathers and foreign mothers who are born out of wedlock can now acquire citizenship at birth by law. The Commission also takes note of plans to revise the Bill on Nationality, Migration and Asylum to address the statelessness of children born to non-Bahamian parents.

64. With respect to **challenges**, the Commission notes the acts of violence, and the limited resources available for medical personnel, during the pandemic. The IACHR also observes the complaints of corruption by public officials, calls by civil society for training of the police, and the backlog of court cases. Regarding the rights of children, the Commission notes the difficulty for students of accessing online education, and that corporal punishment is still on the statute books. The IACHR expresses deep concern with the persistent stigmatization, discrimination and violence against LGBTI persons. The Commission further observes the lack of rehabilitation programs for persons deprived of their liberty, and the failure of the State to abolish the death penalty.

65. The State did not reply to the request for information to prepare this chapter.

- **Specific issues**

66. The **COVID-19** pandemic came at a time when the Bahamas was still under reconstruction following the devastation caused by hurricane Dorian in September 2019. The IACHR highlights the measures undertaken to prevent the spread of the virus. A state of emergency was declared and entered into force on March 20, 2020 under the Emergency Powers Act, Ch. 34 of 1974 and was extended numerous times with an expiration date set for December 2020.<sup>92</sup> The Ministry of Education announced the closure of all schools and educational centers, and online education at private and public schools officially began on October 5<sup>th</sup>.<sup>93</sup> The Commission has knowledge of reports of protests by citizens in relation to the lockdown imposed by the government. In one case, 39 persons were arrested.<sup>94</sup> Likewise, the IACHR has information of the challenges faced by medical personnel during the pandemic. In this context, the Bahamas Nurses Union reported the lack of Personal Protective Equipment, which prevented them from working efficiently.<sup>95</sup>

67. With respect to **human rights institutions**, it should be noted that as of the time of preparing this report, the country does not have a national human rights system or an Ombudsperson office, although a bill has been drafted on this matter.<sup>96</sup> The Commission takes note of reports of

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<sup>92</sup> Eyewitness News, [New State of Emergency Declared](#), November 25, 2020.

<sup>93</sup> The Bahamas Weekly, [“Minister of Education gives update on reopening of schools”](#), October 1, 2020.

<sup>94</sup> Eyewitness News, [Protesters arrested, tensions rise among residents](#), August 19, 2020.

<sup>95</sup> Eye Witness News, [“ENOUGH”: BNU protests death of SRC nurse exposed to COVID-19](#), 22 August 2020; The Nassau Guardian, [Protesters arrested](#), August 18, 2020.

<sup>96</sup> Ombudsman Bill, 2017. A bill an act to provide for the office of Ombudsman.

complaints of corruption at the governmental level<sup>97</sup> such as complaints by the Organization for Responsible Governance which highlighted corruption among public officials. According to the Global Corruption Barometer Study, the Bahamas took the lead in Latin America and the Caribbean for the payment of “bribes of convenience.”<sup>98</sup> The Commission reiterates the importance of the office of the Ombudsperson as an independent recourse for receiving such complaints and carrying out investigations in a timely manner. The situation also reinforces the value of, and need to establish, an Integrity Commission. The bill was presented in 2017 but has yet to be debated in Parliament.<sup>99</sup>

68. With regard to **democratic institutional**ity, the Commission takes note that the State of Emergency has caused a postponement of local elections in one Island. According to public information, the local government elections will not be held until three months after the Emergency Powers Orders are terminated.<sup>100</sup> Likewise, the IACHR observes that the overall rule of law score for the Bahamas decreased by less than 1% in the World Justice Project Rule of Law Index, with the Bahamas placing 9<sup>th</sup> out of 30 countries in the Latin America and Caribbean region.<sup>101</sup>

69. With respect to **citizen security**, the IACHR noted that, according to data provided by the Ministry of National Security, overall crime decreased by 3% during the first five months of 2020, compared to the same period in 2019. The Minister of National Security attributed this decrease to the financial allocation and programmatic measures adopted in 2019 to lower the crime rate under the Citizen Security and Justice Program.<sup>102</sup> The IACHR commends the efforts by the police to remove illegal firearms and some 1,900 rounds of ammunition between January 1, 2020 and May 31, 2020.<sup>103</sup> However, the Commission takes note of allegations of cases of police abuse, and of civil society’s call for training to be made available to police officers to improve their social skills in the manner in which they relate to citizens.<sup>104</sup>

70. In relation to **access to justice**, the IACHR was informed by the State that the COVID-19 outbreak negatively impacted its efficiency, and in particular, the Swift Justice program that commenced in 2017.<sup>105</sup> According to official information, the courts reduced operations to safeguard the health of judicial officers and employees in keeping with the Emergency Powers (COVID-19) Regulations, but continued to provide essential services through the Coronavirus Mitigation

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<sup>97</sup> Eyewitness News, “[DPM and Sky Bahamas chief accused of \\$30 mil. “bogus loan” fraud](#)”, November 19, 2020.

<sup>98</sup> Eyewitness News, “[DPM and Sky Bahamas chief accused of \\$30 mil. “bogus loan” fraud](#)”, November 19, 2020.

<sup>99</sup> Eyewitness News, “[Critical pieces of anti-corruption legislation need to be prioritized, says governance reformer](#)”, November 23, 2020.

<sup>100</sup> The Nassau Guardian, [Local govt elections postponed](#), June 3, 2020.

<sup>101</sup> World Justice Project, [WJP Rule of Law Index 2020 performance: The Bahamas](#), 2020, p.1. The universal principles of law of accountability, just laws, open government and accessible and impartial dispute resolution were applied in determining the rank –see p.10.

<sup>102</sup> Bahamas Information Services, Minister Ames Lauds Initiatives “[Beyond the Prison Walls](#)”, October 15, 2019.

<sup>103</sup> Eyewitness News, [Overall crime down three percent](#), June 18, 2020.

<sup>104</sup> Eyewitness News, [Rights Bahamas condemns COP “excuses” on police abuse](#), January 15, 2020.

<sup>105</sup> Permanent Mission of the Commonwealth of the Bahamas to the OAS, Note OEA No. 260/2019, p. 3.

Protocols.<sup>106</sup> To manage the backlog of trials and court applications of cases, the courts carried out some In-Person Hearings and increased remote hearings through electronic media.<sup>107</sup>

71. Regarding the **rights of children and adolescents**, the Commission notes that in the context of COVID-19, classes took place remotely via virtual platform.<sup>108</sup> The Minister of Education announced that digitization of the educational system would be given priority through the provision of devices and the expansion of internet service.<sup>109</sup> The Commission observed that the State also committed to providing resource packages for students who live in areas that have no internet connection.<sup>110</sup> Despite the efforts of the State, the IACHR takes note of the general decline in grades and the call by the Ministry of Education for academic year 2020 to be repeated due to the inadequate virtual platform during the COVID-19 pandemic. Furthermore, over the years, the Commission has observed the State's continued reluctance to ban corporal punishment in schools and at home.<sup>111</sup> This form of punishment remains lawful under Article 110 of the Penal Code.<sup>112</sup> The Commission urges the State to repeal this article and to ban any form of violence and corporal punishment of children and adolescents in every care-giving setting.

72. Regarding the **rights of lesbian, gay, bisexual, trans and gender diverse, and intersex (LGBTI) persons**, the Commission notes the persistence of stigmatization, discrimination, and violence against LGBTI persons in the Bahamas.<sup>113</sup> According to information received, LGBTI people, especially trans and gender diverse people, have experienced physical and cyber-attacks. In light of this, civil society organizations have indicated that the lack of awareness of public officials, as well as the absence of legislation on hate crimes, creates barriers to access of justice.<sup>114</sup>

73. Regarding the **rights of persons in the context of human mobility**, the Commission observes that the State is returning people who have entered the country illegally, without making a prior analysis of possible international protection needs. This is done under the argument of defending the laws, the dignity of the people, and the borders.<sup>115</sup> Regarding the reduction in cases of statelessness, the Commission notes that in May 2020 the Supreme Court decided to allow girls and boys, children of Bahamian men and foreign women, born out of wedlock to acquire their Bahamian

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<sup>106</sup> The Bahamas Judiciary, [COVID 19 Protocols](#).

<sup>107</sup> Permanent Mission of the Commonwealth of the Bahamas to the OAS, Note OEA No. 260/2019, p. 3.

<sup>108</sup> UNDP, LAC C19 PDS No. 16. [The Bahamas Country note: Impact of COVID-19 and policy options](#), p. 11, July 28, 2020.

<sup>109</sup> The Nassau Guardian, [Schools re-open October 5](#), September 1, 2020.

<sup>110</sup> Caricom Today, [The Bahamas Schools to reopen on October 5](#), September 2, 2020.

<sup>111</sup> The Tribune, [Corporal Punishment in Schools](#), February 28, 2020.

<sup>112</sup> Laws of the Bahamas, [The Penal Code \(1873\)](#) Chapter 84.

<sup>113</sup> UNAIDS, [Caribbean community organizations call for decisive action to end homophobic abuse and cyberbullying](#), May 29, 2020; Eye Witness News, [No 'hate crimes' legislation creates barrier to accessing justice](#), July 16, 2020; Eye Witness News, [Bahamian drag queen receives hate attacks after sharing survival story](#), July 14, 2020.

<sup>114</sup> UNAIDS, [Caribbean community organizations call for decisive action to end homophobic abuse and cyberbullying](#), May 29, 2020; Eye Witness News, [No 'hate crimes' legislation creates barrier to accessing justice](#), July 16, 2020; Eye Witness News, [Bahamian drag queen receives hate attacks after sharing survival story](#), July 14, 2020.

<sup>115</sup> IACHR, [Annual Report. Chapter IV.A. "Bahamas"](#), 2019, par. 59. The Government of Bahamas, [Press Release - Immigration Minister Highlights Several Measures Implemented to Improve Services at the Department](#), October 26, 2020. The Tribune, [Marines Apprehend Haitian Sloop](#), August 4, 2020; The Tribune, [42 Haitian Migrants Deported](#), October 19, 2020.

nationality at birth. Thus, they would not have to wait until they were 18 to apply for citizenship.<sup>116</sup> Along the same lines, the Minister of Financial Services, Trade, and Investments and Immigration has indicated that the draft law on nationality, migration, and asylum will be reviewed, in order to address the problems of statelessness for girls and boys born in the Bahamas to non-Bahamian parents.<sup>117</sup>

74. With respect to **persons deprived of their liberty**, the Commission observes that the penitentiary's population at the Fox Hill Prison (the only prison in the country) complained in a letter to the Minister of National Security of a lack of rehabilitation programs caused by the COVID-19 lock down.<sup>118</sup> In this context, the IACHR recalls that in general terms, in accordance with the American Convention and other international instruments on this subject, the purpose of a custodial sentence is the social reintegration of the person.<sup>119</sup> Therefore it calls on the State to adopt the necessary measures to facilitate the process of social reintegration of persons under its jurisdiction, in accordance with relevant international standards.<sup>120</sup>

75. Regarding the **death penalty**, the IACHR takes note that there has been no progress with removing the death penalty from the statutory books despite the fact that no execution has taken place since 2000, and no one has been sentenced to death since this time.<sup>121</sup> The Commission further notes that, as of October 2020, no one was on death row in the State.<sup>122</sup> In this context, it is worrying that the Speaker of the House of Assembly has called for the enforcement of the death penalty at this time.<sup>123</sup> The IACHR urges the Government to work towards the abolition of the death penalty.

76. Regarding the rights of women, the Commission acknowledges the State's declarations aimed at protecting girls and women, as well as eliminating gender violence, within the framework of the International Day for the Elimination of Violence against Women.<sup>124</sup> Likewise, the Commission notes the State's decision to allocate a specific amount of funds for youth and women within its small business development program.<sup>125</sup>

## BARBADOS

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<sup>116</sup> The Tribune, Dad's Bahamian? Then You Are Too – Supreme Court Sets New Provision For Citizenship If Born Outside Marriage, May 26, 2020.

<sup>117</sup> The Government of Bahamas, Press Release - Immigration Minister Highlights Several Measures Implemented to Improve Services at the Department, October 26, 2020.

<sup>118</sup> The letter was copied to the local Tribune Newspaper, which published it on April 29<sup>th</sup>. The Tribune, 'Desperate' Inmates Warn Anger's Rising, April 29, 2020.

<sup>119</sup> American Convention, article 5.6; UN, International Covenant on Civil and Political Rights, General Assembly Resolution 2200 A (XXI), 16 December 1966, article 10(3); Committee of Ministers of the Council of Europe, Recommendation Rec (2006)2 European Prison Rules, January 11, 2006, Part I/Principle 6 and Part V/ Principle 72.3.

<sup>120</sup> In this regard, see IACHR, Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas, 131st period of sessions, March 13 – 14, 2008.

<sup>121</sup> Amnesty International, Global Report: Death Sentences and Executions, April 2020, p.14.

<sup>122</sup> Meeting with the Death Penalty Project on October 27, 2020.

<sup>123</sup> The Nassau Guardian, "Capital punishment should be enforced," September 30, 2020.

<sup>124</sup> State of The Bahamas, International Day for the Elimination of Violence against Women 2020, November 25, 2020.

<sup>125</sup> State of The Bahamas, Prime Minister Minnis \$25M set aside for entrepreneurship programs geared toward youth and women, November 8, 2020.

- **General considerations**

77. With respect to **progress**, the IACHR commends the policies implemented during the COVID-19 outbreak that resulted in only seven recorded deaths during 2020. The Commission also underscores the measures implemented to protect women and older persons who suffered domestic abuse. The IACHR also observes the 50% reduction in homicides and the introduction of early release and rehabilitation programs for persons deprived of their liberty.

78. Regarding **challenges**, the IACHR is concerned about the reports of corruption by public officials, reduced operations of the courts and the backlog of cases due to the pandemic, and the increase in cases of domestic violence. In relation to LGBTI persons, the challenges that persist in the State for the approval of legal unions continue to be of concern, as do the criminalization of same sex relations, discriminatory treatment in the workplace based on gender identity and expression, and the so-called conversion therapies. The Commission also notes the failure of the State to abolish the death penalty.

79. The State did not reply to the request for information to prepare this chapter.

- **Specific issues**

80. In the context of the **COVID-19 pandemic**, the IACHR highlights the measures adopted by the State that contain the spread of the virus. The first case was found on March 17th and preventative actions were immediately taken, such as the declaration of a state of public health emergency on March 26, night curfews,<sup>126</sup> suspension of classes at all levels of education on March 18<sup>127</sup>, and border closures. In particular, the curfew was expected to end on April 14, but it was extended to May 3<sup>128</sup>, and again to June 30.<sup>129</sup> The IACHR takes note of the implementation of regulations that resulted, during 2020, as mentioned earlier, in only seven recorded COVID-19 related deaths since the outbreak of the pandemic in Barbados.<sup>130</sup> Barbados reopened its borders on July 12<sup>131</sup> to those who presented a negative RT-PCR test and who completed a mandatory preventive social isolation.<sup>132</sup> Furthermore, in order to form a response to the COVID-19 pandemic, technical experts were appointed to supervise the establishment or conversion of the COVID treatment and quarantine facilities, and an infectious disease specialist was appointed to oversee isolation facilities, clinical management, and training of healthcare workers.<sup>133</sup>

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<sup>126</sup> SITATA, "[Covid-19 medidas cautelares en Barbados](#)", April 28, 2020.

<sup>127</sup> Loop News, "[Students expected to be back in school late September](#)", August 25, 2020.

<sup>128</sup> Nation News, "[Curfew extended](#)", April 11, 2020.

<sup>129</sup> UNCTAD, "[Life after lockdown: Rebuilding tourism globally, sustainably](#)", September 1, 2020.

<sup>130</sup> WHO, "[Global: Barbados](#)", 2020.

<sup>131</sup> Visit Barbados, "[Travel guidelines](#)".

<sup>132</sup> Loop News, "[Students expected to be back in school late September](#)", August 5, 2020.

<sup>133</sup> Pan American Health Organization, "[An example of government leadership and regional cooperation in containing the COVID-19 virus](#)".

81. In relation to access to education, schools officially remained closed on April 23<sup>134</sup> following closure in March,<sup>135</sup> and that, during the closure, social services provided counseling for vulnerable families.<sup>136</sup> The IACHR observed that online schooling was introduced, with guidance by the Ministry of Education,<sup>137</sup> while the Media Resource Department of the Ministry provided education content via radio broadcasts and worked with private internet providers to expand access to households that had no internet access.<sup>138</sup> Schools were officially reopened on 21 September 2020.<sup>139</sup>

82. In relation to **human rights institutions**, Barbados has an Ombudsperson Office and participates as a member of the Caribbean Ombudsman Association and in the Commonwealth Forum of the National Institutes of human Rights.<sup>140</sup>

83. With respect to **democratic institutional**ity, the Commission observes Barbados' intention to "leave its colonial past behind" and become a republic by November 2021, when the country will celebrate its 55<sup>th</sup> anniversary of independence.<sup>141</sup> In her Throne Speech on September 16th, the Governor General noted that having gained independence more than fifty years ago, Barbados was capable of self-governance.<sup>142</sup> With respect to democratic governance, the Commission observes that Barbados' overall rule of law score decreased by less than 1% in this year's Index, placing it 4<sup>th</sup> out of 30 countries in the Latin America and Caribbean region.<sup>143</sup> Furthermore, the IACHR takes note of reports of acts of corruption by a former Parliamentarian and two former public officials who were found guilty of money laundering and bribery.<sup>144</sup> In this context, the Commission urges the State to implement legislative, administrative and other measures that would guarantee the exercise of human rights and combat the violations and restrictions caused by the phenomenon of corruption.<sup>145</sup>

84. With respect to **citizen security**, the Commission observes an almost 50% decrease in the number of homicides during 2020 compared to the same period in 2019.<sup>146</sup> The IACHR remains concerned about the number of illegal firearms available in the country and takes note of the efforts

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<sup>134</sup> IDB, Social Digital: Barbados, 2020.

<sup>135</sup> Barbados Today, Schools won't open again after all, after unions outcry, March 19, 2020

<sup>136</sup> IDB, Social Digital: Barbados, 2020.

<sup>137</sup> Government Information Service, Guidelines for the Safe Operation of Schools in Barbados, September 18, 2020.

<sup>138</sup> IDB, Social Digital: Barbados, 2020.

<sup>139</sup> IDB, Social Digital: Barbados, 2020.

<sup>140</sup> Commonwealth Forum of National Human Rights Institutions, "Barbados".

<sup>141</sup> CNN, Barbados will drop Queen Elizabeth II as its head of state next year, government announces, September 16, 2020.

<sup>142</sup> Global News, Barbados to become a republic: What it means for the Crown, the Commonwealth and Canada, September 28, 2020.

<sup>143</sup> World Justice Project, WJP Rule of Law Index Performance: Barbados, 2020, p. 1. The universal principles of law of accountability, just laws, open government and accessible and impartial dispute resolution were applied in determining the rank, see p. 10 of Report.

<sup>144</sup> Morrison Foerster, Top 10 International Anti-Corruption Developments for January 2020, February 13, 2020.

<sup>145</sup> IACHR, Resolution 1/8 -Corruption and Human Rights, Bogotá, Colombia, March 2, 2018.

<sup>146</sup> Loop news Barbados, Homicides in 2020 down by almost 50 per cent compared to 2019, May 14, 2020.



by the police to remove them. The Commission is aware that the Royal Barbados Police Force (RBPF) has assured the public that they will continue to work to rid the streets of illegal firearms.<sup>147</sup>

85. In relation to **access to justice**, the IACHR observes that the COVID-19 outbreak negatively impacted the efficiency of the justice system, and notes that the courts reduced operations to protect judicial employees and officers and held hearings via video and teleconferences.<sup>148</sup> During this time, the Commission took note of an increase in cases of domestic violence, while there were only a limited number of police officers to oversee family matters.<sup>149</sup> However, the IACHR is aware of the creation of a hotline by the Ministry of People Empowerment and Elder Affairs for persons in need of services or experiencing forms of domestic violence, and that the Shelter for Battered Women remained open to accommodate those women who were in need of such services.<sup>150</sup>

86. Regarding the **rights of lesbian, gay, bisexual, trans, and gender diverse/intersex (LGBTI) persons**, the Commission acknowledges the efforts that have been made to recognize legal unions between persons of the same gender, especially the words expressed by the governor in this regard; as well as the pronouncement of the Prime Minister against discrimination based on gender and sexual orientation.<sup>151</sup> However, the IACHR is concerned about the challenges that persist in the State for the approval of legal unions, beyond the recognition of equal marriage in accordance with international obligations on the matter.<sup>152</sup>

87. In addition, the IACHR acknowledges the legal protection against discrimination based on sexual orientation in the workplace.<sup>153</sup> Nevertheless, civil society organizations have provided information of non-inclusion of the legal protection against discrimination based on identity and gender expression.<sup>154</sup> Furthermore, the Commission is concerned that the work visa program would discriminate against couples of the same gender.<sup>155</sup> Likewise, the Commission notes with concern that the Sexual Offenses Act, Chapter 154, Section 9, which criminalizes consensual relationships between adults of the same sex, is still in force; as well as the crime of “serious

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<sup>147</sup> Barbados Advocate, [RBPF Destroys Hundreds of Firearms](#), August 17, 2020.

<sup>148</sup> Barbados, [The effects of the COVID- 19 crisis on civil justice](#).

<sup>149</sup> Stabroek News, [Covid-19 and the ongoing crisis of domestic violence: A view from Barbados](#), May 18, 2020.

<sup>150</sup> Stabroek News, [Covid-19 and the ongoing crisis of domestic violence: A view from Barbados](#), May 18, 2020.

<sup>151</sup> Sandra Mason, [Throne Speech](#), September 15, 2020; New Americas Now, [This CARICOM Nation Could Legalize Same Sex Marriage](#), September 15, 2020; Jamaica Gleaner, [Barbados to recognise same-sex civil unions](#), September 15, 2020; Reuters, [Barbados pledges same-sex marriage vote, but supporters doubt reform](#), September 16, 2020; Mia Mottley, [Mottley on 12-month welcome stamp: "We welcome all, everyone"](#), July 21, 2020; GSN, [Barbados Prime Minister backs LGBT+ workers' rights and hints at same-sex marriage](#), July 22, 2020.

<sup>152</sup> Sandra Mason, [Throne Speech](#), September 15, 2020; Reuters, [Barbados pledges same-sex marriage vote, but supporters doubt reform](#), September 16, 2020; Jamaica Observer, [Barbados is on the wrong road, say Jamaican church leaders](#), September 16, 2020; Barbados Today, [Opposing groups march over proposal to legalize same-sex unions](#), October 25, 2020; Barbados Today, [Let the Christians march in peace](#), October 30, 2020.

<sup>153</sup> Barbados Parliament, [Bill against discrimination related to employment](#), 2020; GSN, [Barbados Prime Minister backs LGBT+ workers' rights and hints at same-sex marriage](#), July 22, 2020; Barbados Today, [Lawmakers approve bill to tackle the problem in the workplace](#), July 29, 2020; Nation News Barbados, [Outlawing bigotry in workplace](#), July 29, 2020.

<sup>154</sup> 76 Crimes, [Barbados legislates anti-trans bigotry](#), July 30, 2020.

<sup>155</sup> Living Out Loud, [Prime Minister Welcomes Remote Workers, Except If You're LGBTQ](#), July 20, 2020; The Chat Room, [The Barbados Work Stamp Visa LGBTQ+ Conversation](#), July 23, 2020.



indecency.”<sup>156</sup> Civil society organizations have indicated that repealing these norms would provide a better social environment for LGBTI people; they add that criminal law consequences of these rules could even include sentencing to life imprisonment.<sup>157</sup>

88. On the other hand, the Commission has received worrying information about the so-called “conversion therapies” or efforts to “correct” the sexual orientation and gender identity of LGBTI people or those perceived as such, in the Caribbean States, including Barbados. These practices, generally carried out clandestinely, constitute a serious violation of human rights and cause mental, physical, or sexual harm to those individuals.<sup>158</sup>

89. Regarding **persons deprived of their liberty**, the IACHR notes that given the vulnerability of this population, the Minister responsible for the Prison Service assured the public that the health protocol that was developed together with the Ministry of Health and Wellness is amended during each national influenza outbreak, and that the COVID-19 protocol at Dodds Prison (the only penitentiary in the country) was activated in February.<sup>159</sup> Furthermore, the Commission commends the Government for: i) its establishment of a six-month pre-release program that focuses on preparing persons deprived of their liberty for reintegration into their communities; ii) the application of the remission of sentence, which allows sentences to be cut by 25 percent for good behavior and participation in rehabilitation programs;<sup>160</sup> and iii) its plans to allow persons in pretrial detention to access “educational and developmental programs”.<sup>161</sup> Participation in rehabilitation programs for those in pretrial detention is crucial according to a High Court judge due to the backlog of cases.<sup>162</sup> The IACHR values these efforts and reiterates the importance of applying pretrial detention in keeping with the criteria of exceptionality, legality, necessity, and proportionality. The Commission also recalls that Article 5.6 of the American Convention attributes social reintegration as the main purpose of the deprivation of liberty.

90. In relation to the **death penalty**, the IACHR takes note that there has been no progress with removing this punishment from the statutory books even though no execution has taken place since 1984. The Commission further notes that as of October 2020, there were 10 prisoners on death row<sup>163</sup> who are all expected to be re-sentenced following the judgement by the Caribbean Court of Justice (CCJ) in the consolidated case of *Jabari Sensimania Nervais v The Queen* and *Dwayne Omar Severin v The Queen*. In this case, the CCJ declared that the mandatory death penalty was unconstitutional. In this context, the IACHR urges the Government to work towards abolition of the death penalty.

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<sup>156</sup> Sexual Offenses Act, Chapter 154, Section 9 (Sodomy) and Sexual Offenses Act, 2002, Chapter 154, section 12.

<sup>157</sup> BBC News, [The region which legislates who you can love](#), January 1, 2020; Barbados Today, [Regional approach to decriminalising homosexuality](#), March 6, 2020; 76 crimes, [Churches, activists fighting anti-gay laws](#), October 28, 2020; Jamaica Gleaner, [Need for conversations on buggery law](#), November 2, 2020.

<sup>158</sup> IACHR, [Human rights situation of LGBTI people in the Caribbean](#), 178<sup>th</sup> Period of Sessions, December 8, 2020; OHCHR, [“Conversion Therapy” could amount to forms of torture and should be banned, says United Nations](#), July 13, 2020.

<sup>159</sup> Loopnews Barbados, [HMP Dodds following health protocols during COVID-19](#), April 19, 2020.

<sup>160</sup> UNDP, [Caribbean Justice: a needs assessment of the Judicial system in nine countries](#), 2020, p. 29.

<sup>161</sup> Barbados Today, [Prison changes coming, says minister](#), October 29, 2020.

<sup>162</sup> Barbados Today, [Prison changes coming, says minister](#), October 29, 2020.

<sup>163</sup> Meeting with the Death Penalty Project on October 27, 2020.

## BELIZE

- **General considerations**

91. Regarding **progress** achieved by the State, the Commission highlights the preventive measures adopted by the State to contain the spread of COVID-19, and observes the realization of the democratic process during the holding of general elections, as well as the peaceful transition of power. The IACHR also takes note of the 25% decrease in homicides in some districts of the country. The Commission commends the efforts of the State to implement an education policy that addresses the needs of migrant children. The IACHR underscores the launch of the birth registration campaign among the migrant population to prevent the trafficking of children and adolescents.

92. In terms of **challenges**, the IACHR expresses concern with reports of acts of corruption by public officials, and alleged excessive use of force by the police during a peaceful protest. The Commission is also concerned with the reports of increased cases of child abuse during the pandemic, and with the detention of migrants at the Belize Central Prison, a penitentiary institution. Regarding LGBTI persons, the IACHR takes note of the withdrawal of the Equal Opportunity Bill which prohibits discrimination on grounds of gender and sexual orientation, disability and VIH. Equally concerning to the Commission are reports of efforts to correct sexual orientation and gender identity through so-called “conversion therapies”. The IACHR observes that the death penalty has still not been abolished.

93. The State did not reply to the request for information it was sent to prepare this chapter.

- **Specific issues**

94. In the context of the **COVID-19** health crisis, the Commission highlights the measures taken to deal with the spread of the virus. In Belize, the first case was registered on March 23 and preventive actions were taken, even before the detection of cases. Among these measures, the declaration of a health emergency and the state of emergency, the closure of educational establishments, a limited border policy and preventive social isolation, as well as a series of actions focusing on specific groups and economic activities stand out<sup>164</sup>. After several months of implementing these measures, and in the middle of an institutional transition, actions were taken to gradually reactivate the economy and in particular, tourism and social activity in the country<sup>165</sup>. In this context, the Commission recalls its Resolution 01/20, through which it called on States to follow the recommendations based on scientific evidence and issued by the World Health Organization (WHO).<sup>166</sup>

95. With regard to the cross-cutting axis of human rights institutions, the IACHR recognizes the Office of the Ombudsman of Belize and its participation as a member of the Caribbean Ombudsperson Association and in the Commonwealth Forum of the National Institutes of Human Rights. In this regard, the IACHR takes note of the institutional change process that has been promoted and calls for strengthening the office in accordance with the principles of independence and autonomy

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<sup>164</sup> Rapid and Integrated Response Coordination Unit, “[North America](#)”.

<sup>165</sup> Belize Tourism Board, “[Covid-19 update for travellers](#)”.

<sup>166</sup> World Health Organization (WHO), “[Coronavirus disease \(COVID-19\) advice for public](#)”. October 27, 2020.

under the Paris Principles for the protection of human rights in the country.<sup>167</sup> Likewise, the IACHR welcomes the recent ratification of the Escazú Agreement on Access to Information and Access to Justice in Environmental Matters in Latin America and the Caribbean.<sup>168</sup>

96. As for **democratic institutional**ity, the IACHR commends Belize for the democratic process that was observed during the General Elections that took place on November 11th.<sup>169</sup> The Commission was apprised of the COVID-19 safe voting protocols that were put in place by the Health Department and the Belize Electoral and Boundaries Commission, and which were followed by both the voters and the Election Day workers.<sup>170</sup> There was a peaceful transition of power following the elections, in which the Opposition party won 26 of the 31 parliamentary seats.<sup>171</sup>

97. On the other hand, the IACHR remains concerned at the reports of corruption and the lack of enforcement of the [Prevention of Corruption Act \(2007\)](#).<sup>172</sup> In this regard, according to public information, acts of corruption by the previous Administration sparked a large anti-corruption protest at which various demands were made to end corruption.<sup>173</sup> The demands included the investigation into fraud by the leader of the then governing party,<sup>174</sup> who was allegedly involved in accepting campaign finance.<sup>175</sup> The IACHR calls on the State to enforce the law against corruption in keeping with IACHR's Resolution on corruption and human rights.<sup>176</sup> Likewise, the Commission urges the State to implement legislative, administrative, and other measures that would guarantee the exercise of human rights against the violations and restrictions caused by the phenomenon of corruption.<sup>177</sup>

98. With respect to **citizen security**, the IACHR notes a decline in crime in some districts in Belize. According to statistics of the Belize Crime Observatory, from January to May 2020, 343 crime reports were filed compared to 463 during the same period in 2019.<sup>178</sup> The Belize Crime Observatory also indicated that during the first ten months of 2020, major crimes decreased by 29%, while murders decreased by 25% (that is, from 134 in 2019 to 82 in 2020).<sup>179</sup> The Commission expresses concern at the reports of excessive use of force by the Gang Suppression Unit against citizens who were staging

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<sup>167</sup> Breaking Belize News, "[Ombudsman's Office needs to be checked, says new Minister of Home Affairs](#)", December 17, 2020.

<sup>168</sup> El Independiente, "[El acuerdo de Escazú](#)".

<sup>169</sup> BBC News, [Belize election: Opposition win brings change after 12 years](#)

<sup>170</sup> CARICOM, [CARICOM Election Observation Mission to Belize – Preliminary Statement](#), November 12, 2020.

<sup>171</sup> CARICOM Today, [Belizeans Vote for Change](#), November 11, 2020.

<sup>172</sup> IACHR, [Resolution 1/8 - Corruption and Human Rights](#), Bogotá, Colombia, March 2, 2018.

<sup>173</sup> News 5, [N.T.U.C.B. Holds Successful Demonstration in Belize City](#), February 20, 2020. The demands included investigation of a former government official on charges of fraud. See Breaking Belize News, [Capital City sees multiple challenges to Belmopan kingpin John Saldivar](#), October 21, 2020.

<sup>174</sup> News 5, [N.T.U.C.B. Holds Successful Demonstration in Belize City](#), February 20, 2020. The demands included investigation of a former government official on charges of fraud.

<sup>175</sup> Breaking Belize News, [Capital City sees multiple challenges to Belmopan kingpin John Saldivar](#), October 21, 2020.

<sup>176</sup> IACHR, [Resolution 1/8 - Corruption and Human Rights](#), Bogotá, Colombia, March 2, 2018.

<sup>177</sup> IACHR, [Resolution 1/8 - Corruption and Human Rights](#), Bogotá, Colombia, March 2, 2018.

<sup>178</sup> Breaking Belize News, [Belize Crime Observatory: "COVID-19 continues to alter the dynamics of crime in Belize"](#), 10 June 2020.

<sup>179</sup> Belize Crime Observatory, [Crime Data](#), December 2020.

a peaceful protest on 22nd July 2020.<sup>180</sup> It was reported by civil society organizations that unionized workers were protesting pay cuts and dismissals of 36 employees when the police unit intervened using rubber bullets and tear gas to disperse the crowd, injuring several people.<sup>181</sup> The IACHR took note of the announcement by the then Prime Minister to ensure disciplinary measures against the police officers who were involved in the event.<sup>182</sup> In this context, the Commission reiterates that force must be used in accordance with international standards, and urges the State to carry out the respective investigations with due diligence in order to prosecute and punish those responsible.

99. As for the **rights of children and adolescents**, the IACHR observes that UNICEF reported an increase in cases of physical and sexual abuse among children at home during the pandemic.<sup>183</sup> In this context, the Commission takes note that UNICEF provided the Ministry of Development, Social Transformation and Poverty Alleviation with guidance on remote reporting, supplies for remote working and case management and distributed copies of protocols to the police on how they should interact with children.<sup>184</sup> The Commission also takes note of the efforts being made by the Government of Belize and the Inter-American Development Bank to improve the quality of remote and hybrid education over the next five years.<sup>185</sup> The IACHR further notes that Belize allows migrant children to enroll in schools regardless of their status.<sup>186</sup>

100. Regarding the **rights of persons in human mobility**, the Commission notes with concern that these persons, subject to administrative immigration procedures, are reportedly detained in the only prison in the country. This is due to the fact that Belize does not have a detention center for migrants. In this regard, the Commission issues a reminder that the detention of people in a situation of mobility must be carried out in places other than those where there are people accused or convicted of criminal offenses.<sup>187</sup> Likewise, the Commission learned of the indefinite suspension of visits to the Central Prison of Belize, a place where people in a situation of mobility remain in custody, subject to administrative immigration procedures. This, as a measure adopted to contain the COVID-19 pandemic.<sup>188</sup> In this regard, the IACHR recalls that the restriction of visits could have serious consequences for the mental health of persons deprived of liberty. At the same time, it urges the State to adopt other measures, such as videoconferences, increased telephone communications, and electronic communication, given the restriction of in-person visits.<sup>189</sup>

101. In relation to **human trafficking**, the Commission takes note of the implementation of a mobile birth registration campaign by the Vital Statistics Unit of Belize, in conjunction with UNHCR

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<sup>180</sup> The Civic Space Developments, [Repression of Peaceful Protest in the Port of Belize Limited \(PBL\)](#) July 22, 2020.

<sup>181</sup> The Civic Space Developments, [Repression of Peaceful Protest in the Port of Belize Limited \(PBL\)](#) July 22, 2020.

<sup>182</sup> Breaking Belize News, [Prime Minister gives statement on Port of Belize-Christian Workers Union dispute](#), July 24, 2020.

<sup>183</sup> UNICEF, [5 ways COVID-19 is affecting children in Belize and how UNICEF is helping](#), August 25, 2020.

<sup>184</sup> UNICEF, [UNICEF Belize Newsletter: Fast Facts](#), August 2020.

<sup>185</sup> IDB, [IDB helps Belizean schools affected by COVID-19 closures](#), November 2, 2020.

<sup>186</sup> IDB, [IDB helps Belizean schools affected by COVID-19 closures](#), November 2, 2020.

<sup>187</sup> IACHR, [Resolution 04/19 Inter-American principles on the human rights of all migrants, refugees, stateless persons and victims of human trafficking](#), December 7, 2019, principle 69.

<sup>188</sup> Global Immigration Detention Observatory, [Belize Immigration Detention Data Profile](#), August 15, 2020.

<sup>189</sup> IACHR, Press Release 212/20 - [IACHR concerned about specific risks faced by Persons Deprived of Liberty in the Americas during the COVID-19 pandemic](#), Washington D.C., September 9, 2020.

and UNICEF. As part of the campaign in question, draft messages were drawn up in Spanish, English, Q'eqchi 'and Mayan Mopan in which the importance of birth registration is highlighted, as a preventive measure so that especially children and adolescents do not run the risk of becoming victims of human trafficking, and to reduce the risks of statelessness. As a result of its implementation, up until November 2020, 201 children and adolescents were reportedly enrolled.<sup>190</sup> Likewise, according to information in the public domain, the International Organization for Migration is strengthening hotel and tourism industry safeguards to combat sex tourism in the country.<sup>191</sup>

102. On the rights of **lesbian, gay, bisexual, trans and gender diverse and intersex (LGBTI) persons**, the Commission notes the withdrawal of the equal opportunities bill, the purpose of which was allegedly to prevent and prohibit discrimination on certain grounds, such as gender and sexual orientation. It also included protection against discrimination for people living with HIV and persons with disabilities. In this regard, the IACHR expresses its concern with the advance of anti-rights sectors and is keeping close track of the proliferation of disinformation campaigns and demonstrations promoted by sectors opposed to the recognition of the rights of LGBTI persons in Belize.<sup>192</sup>

103. Likewise, the Commission has received worrying information about the so-called “conversion therapies” or efforts to “correct” the sexual orientation and gender identity of LGBTI persons or those perceived as such, in the Caribbean States, including Belize. These practices, which are generally carried out clandestinely, seriously violate human rights and cause mental, physical, or sexual harm.<sup>193</sup>

104. With respect to the rights of **persons deprived of liberty**, the Commission observes that according to the Kolbe Foundation that manages the Belize Central prison (the only prison in the country), the spread of COVID-19 had been successfully contained by introducing mandatory handwashing and social distancing, wearing of face masks, constant disinfection of highly trafficked areas, surfaces, equipment, and staff vehicles, and by the placement of newly admitted detainees in isolation for 14 days.<sup>194</sup> However, on October 14th, a decision was made to begin a 21-day lock down protocol at the prison due to the spread of the virus caused by increased incarceration.<sup>195</sup> Visits were also indefinitely suspended following the outbreak of the virus.<sup>196</sup> According to the Head of Kolbe Foundation, the lock down played an essential role in containing the spread in addition to other preventive measures that were enforced.<sup>197</sup>

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<sup>190</sup> UNICEF, [Campaña móvil impulsa el registro de nacimientos en Belice a pesar del COVID-19](#), November 20, 2020.

<sup>191</sup> OIM, [IOM strengthens Belize's tourism sector against trafficking in persons](#), June 5, 2020.

<sup>192</sup> Breaking Belize News, [Evangelical Churches launch "Kill the Bill" campaign against Equal Opportunities Bill](#), September 15, 2020; Breaking Belize News, [Cabinet confirms that it will not table Equal Opportunities Bill](#), September 15, 2020; Breaking Belize News, [Equal Opportunities Bill formally withdrawn](#), September 16, 2020; Catholic News Agency, [Belize's far-reaching gender bill runs aground, and critics warn of international 'gender ideology' pressure](#), October 18, 2020; Breaking Belize News, [LGBT organizations share their experiences reaching out to political leaders - majority pledge support](#), November 11, 2020.

<sup>193</sup> IACHR, [Human rights situation of LGBTI people in the Caribbean](#), 178<sup>th</sup> Period of Sessions, December 8, 2020; ACNUDH, [“Conversion Therapy” could amount to forms of torture and should be banned, says United Nations](#), July 13, 2020

<sup>194</sup> Public Safety, [Belize Prison Is Dealing Successfully with the Coronavirus](#), September 10, 2020.

<sup>195</sup> Breaking Belize News, [Belize Central Prison institutes 21-day lockdown as COVID-19 precaution](#), October 14, 2020.

<sup>196</sup> Global Immigration Detention Observatory, [Belize Immigration Detention Data Profile](#), August 15, 2020.

<sup>197</sup> Edition Channel 5 Belize, [Belize Central Prison is now COVID free](#), December 8, 2020.

105. As regards the **death penalty**, the IACHR takes note that there has been no progress with removing this punishment from the statutory books even though no execution has taken place since 1985, and no one has been sentenced to death since then.<sup>198</sup> As of October 2020, no one was on death row in the State.<sup>199</sup> The Commission finds it worrisome that this punishment remains on the statute books even though no executions are being carried out, and once more calls on the State to abolish the death penalty.

## **BOLIVIA**

- **General considerations**

106. Regarding the **progress** made during 2020, the IACHR highlights the guaranteeing of democratic institutions and political rights through the holding of general elections, as well as progress in terms of access to justice, including the installation of the Group of Independent Experts, and the rights of LGBTI people.

107. In terms of **challenges**, the Commission highlights the lack of guarantees in terms of human rights institutions, as well as challenges to judicial independence. In addition, the IACHR highlights the challenges posed by the situation of political and social polarization that the country is experiencing, particularly with regard to citizen security. In addition, the IACHR highlights challenges in guaranteeing the rights of children and adolescents.

108. On October 2, 2020, the State submitted a response to the request for information sent for the preparation of this chapter.<sup>200</sup>

- **Specific topics**

109. Following the outbreak of the **COVID-19** pandemic, the IACHR highlights the measures taken to contain the spread of the virus. On March 10, the first case was confirmed. On March 12, a state of emergency was declared and educational centers and borders were closed, while on March 17 targeted isolation measures were taken by region, and a nationwide quarantine was decreed on March 22. On March 25, a full-blown health emergency was declared. After several months of those measures, Bolivia announced the total reopening of its land borders and full normalization of activities as of December. It scheduled the re-opening of schools for February 2021, with the departments and municipalities empowered to determine specific schedules and teaching methods. In December, it was agreed to purchase vaccines to combat the pandemic.

110. With regard to **human rights institutions**, the Commission noted with satisfaction the bill announced by the Government on December 10, 2020 to regulate the procedure for compliance with reparations ordered by international bodies when international responsibility for human rights violations is declared.<sup>201</sup>

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<sup>198</sup> Amnesty International, Global Report: Death Sentences and Executions, April 2020, p.14.

<sup>199</sup> Death Penalty Project, Information provided to the Commission during a meeting held on October 27, 2020.

<sup>200</sup> Plurinational State of Bolivia, document submitted to the IACHR, October 2, 2020.

<sup>201</sup> La Razón, El Gobierno normará el cumplimiento de las sentencias internacionales en DDHH, December 10, 2020.

111. On the other hand, the IACHR took note that on July 13, 2020, government authorities declared that they did not recognize the current interim Ombudsperson, because the term for which she was appointed had supposedly expired. As a consequence of that disavowal, institutions of the Executive Branch stated that they would not respond to requests for information issued as part of the Ombudsperson's work mechanisms.

112. Regarding democratic institutionalality, the IACHR learned that the Executive Branch had approved promotions in the National Armed Forces<sup>202</sup> without the legislative ratification provided for in Article 160 of the Political Constitution of the State.<sup>203</sup> The Commission calls on the State to guarantee maximum respect for and adherence to constitutional procedures.

113. The IACHR further noted that the Plurinational Legislative Assembly modified its internal regulations, eliminating the need for approval of various measures with a two-thirds majority of the chambers that comprise it, including the appointment of ambassadors and promotions in the military and police leadership, among other measures.<sup>204</sup> According to information in the public domain, that situation prompted protests and was rejected by a number of civil society sectors.<sup>205</sup>

114. Regarding the 2020 electoral process, the State informed the Commission that the elections had to be postponed due to the pandemic, so they were held on October 18, 2020. The IACHR highlights, with satisfaction, the statements made by various electoral observation missions on the successful holding of elections in the country, despite objections in some quarters that have been addressed by the competent authorities.<sup>206</sup>

115. In the area of **citizen security**, the IACHR received information regarding the concern voiced by different actors regarding joint citizen security operations executed by the national police

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<sup>202</sup> Opinión, [Gobierno ignora al senado y dispone ascenso de militares a través del Senado](#), July 15, 2020; El Deber, [Gobierno emite un decreto para el ascenso directo en las FFAA, sin el Legislativo](#), July 15, 2020. Human Rights organizations also commented. See: La Razón, [HRW critica a Añez por ascensos mediante decreto en las FFAA y ratifica que es potestad del Senado](#), July 16, 2020 and Erbol, [Copa informa que se presentó acción de nulidad contra el Decreto de ascensos militares](#), July 24, 2020.

<sup>203</sup> The constitutional text referred to states: "The following are attributions of the Senate, in addition to those determined by this Constitution and the law: (...) 8. Ratify the promotions, at the proposal of the Executive Branch, to General of the Army, Air Force, Division and Brigade; to Admiral, Vice Admiral, Rear Admiral and General of the Bolivian Police."; La Razón, [Ascensos: las FFAA conminan al Senado y este órgano dice que no se somete a la presión](#), July 15, 2020 and Página 12, [Las FFAA de Bolivia conminan al Senado por ascensos de militares](#), May 23, 2020; Asamblea Legislativa Plurinacional, [ALP rechaza intromisión del Alto Mando Militar que con pedido de acelerar ascensos desconoció a su Capitana General y la cadena de mando](#), June 25, 2020. In a similar vein: WOLA, [Preocupación por los actos de intimidación de las fuerzas armadas en el Senado](#), May 29, 2020. Agencia Boliviana de Información, [Gobierno denuncia que desde hace dos meses Copa se niega a programar la sesión para tratar ascensos en las FFAA](#), May 16, 2020.

<sup>204</sup> AP, [Morales' party changes congressional rules in favor of Arce](#), October 28, 2020.

<sup>205</sup> According to information provided to the Commission by the "Ríos de Pie" Organization during the social forum held on November 6, 2020. In addition, the National Coordinator for the Defense of Indigenous Territories and Protected Areas of Bolivia considered the reform a "blow to democracy", see: Página Siete, [Críticas y protestas en Bolivia por el cambio del reglamento del Legislativo](#), October 28, 2020 and El Comercio, [Opositores Bolivianos protestan durante la investiture de Luis Arce](#), November 8, 2020.

<sup>206</sup> El Deber, [Justicia niega amparo del Comité pro Santa Cruz por supuesto fraude en los comicios](#), November 10, 2020. In this regard, the OAS Electoral Observation Mission, in its preliminary report of October 21, 2020, indicated that the elections were successful and took place peacefully, see: OAS, [Informe preliminar de la Misión de Observación Electoral de la OEA sobre las elecciones generales de Bolivia celebradas el 18 de octubre de 2020](#), October 21, 2020.



and the armed forces.<sup>207</sup> In this regard, the IACHR took note of the condemnation by the OHCHR Mission in Bolivia of a video that recorded an act of physical violence perpetrated by a member of the armed forces against a man who allegedly committed a crime in El Alto in July 2020.<sup>208</sup>

116. In the electoral context, the Commission notes that the Mission in Bolivia of the Office of the United Nations High Commissioner for Human Rights (OHCHR) recorded at least 41 acts of violence in the electoral context, specifically during the campaign.<sup>209</sup>

117. Likewise, the IACHR took note of, and called for an investigation<sup>210</sup> into, a police intervention on July 17, 2020 in the blockade that for several days kept the entrance to the Villa Ingenio landfill in El Alto closed; during these events, according to publicly available information<sup>211</sup> and reports from civil society, a teenager was allegedly hit in the head by a tear gas canister.<sup>212</sup>

118. In addition, and as an expression of its concern, the IACHR called on the State,<sup>213</sup> on October 7, 2020, to take urgent measures to guarantee the life and personal integrity of those working in the Attorney General's Office and in the justice system in light of the mobilizations that, while demanding the resignation of the Attorney General, Juan Lanchipa, included the burning of tires and firecrackers in the vicinity of the Attorney General's Office in Sucre.<sup>214</sup>

119. On the other hand, the IACHR notes that, following the violent events surrounding elections in 2019, the citizen security situation in Bolivia during 2020 was marked by increased polarization between certain sectors of society.<sup>215</sup> In this regard, the Commission followed up on the resurgence of armed citizen groups that were reported to the IACHR mission that visited Bolivia in 2019, and received information on acts of violence that were provoked or attributed to the Cochala Youth Resistance (RJC).<sup>216</sup> Thus, during 2020, the Commission took note, with concern, of reports of civilians opposed to the RJC and other confrontational groups identified within Bolivian society that

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<sup>207</sup> El Diario, [Armed Forces and Police in joint operation](#), January 22, 2020.

<sup>208</sup> Erbol, [UN Human Rights condemns military's beating of alleged criminal and calls for sanctions](#), July 24, 2020.

<sup>209</sup> Página Siete, [NNUU registered 41 acts of violence since the beginning of the campaign](#), October 8, 2020.

<sup>210</sup> IACHR, [Tweet](#), July 18, 2020.

<sup>211</sup> Página Siete, [Policía interviene el bloqueo al vertedero en El Alto](#), July 17, 2020; Asociación Pro Derechos Humanos de Bolivia, [Comunicado](#), July 17, 2020.

<sup>212</sup> Ombudsman's Office, Defensoría del Pueblo, [Defensoría del Pueblo verifica que joven agredido en Villa Ingenio sufrió una fractura](#), July 20, 2020.

<sup>213</sup> IACHR, [Tweet](#), October 7, 2020.

<sup>214</sup> Opinion, [Cochala Youth Resistance starts vigil in Sucre demanding Lanchipa's resignation](#), October 6, 2020.

<sup>215</sup> El Deber, [Cívicos provinciales anuncian que saldrán a desbloquear las carreteras si el Gobierno no toma acciones](#), August 5, 2020 and El País, [Choques entre grupos de opositores y simpatizantes del Gobierno agravan el conflicto boliviano](#), August 10, 2020.

<sup>216</sup> Los Tiempos, [La Resistencia y bloqueadores se enfrentaron en Colcapirhua](#), 9 August 2020; Defensoría del Pueblo, [Defensoría del Pueblo denuncia violencia electoral inminente en Cochabamba](#), 20 October 2020; Opinión, [Defensoría condena violencia contra periodistas por miembros de la RJC](#), November 1, 2020; Defensoría del Pueblo, [DP Repudia amenazas de RJC que incitan a la violencia](#), May 20, 2020; [DP Condena violencia delincuencia de RJC](#), September 19, 2020; [DP Denounces Omission of Police Protection in Election Campaign](#), 9 October 2020; Vice, [Bolivia's Biker Squads Are Like a 'Hyper-Armed Version of the Proud Boys'](#), 31 August 2020.



reportedly demonstrated with firearms in Cochabamba and La Paz, heightening citizens' sense of insecurity.<sup>217</sup>

120. With regard to **access to justice and judicial independence**, the Commission took note of the arrest of Judge Hugo Huacani<sup>218</sup> on May 22, 2020 in La Paz<sup>219</sup> and the subsequent statement by the Association of Magistrates and Judges of La Paz in which the judges of that locality declared themselves in an emergency in light of what had occurred, describing the arrest of Judge Huacani as "government interference in the independence of the judiciary".<sup>220</sup> The IACHR takes note of the public information related to the advances in the criminal proceedings initiated to determine responsibilities in this case.<sup>221</sup>

121. Accordingly, the Commission held the thematic hearing "Situation of judicial independence and access to information during the COVID-19 pandemic in Bolivia," in which it received reports on, among other aspects, the dismissal of some judges without due process,<sup>222</sup> as well as allegations that, in 2020, about 80% of staff in the Judiciary had only a provisional appointment.<sup>223</sup> The Commission has closely monitored this issue<sup>224</sup> and, based on the information received in 2020, reiterates that the provisional nature of appointments in the administration of justice is a major ongoing structural defect, which poses a threat to the proper functioning of the justice system as a whole.<sup>225</sup>

122. Regarding the administration of justice in the context of the prevention and containment measures adopted to address the COVID-19 pandemic, the Commission also learned that the Superior Court of Justice issued Circular 004/2020, by which it declared the suspension of all work activities in the Supreme Court of Justice, Departmental Courts of Justice, and Provincial Judicial Seats in the nine departments of the country, as of Monday, March 23. As a consequence, the Departmental Courts of Justice in Bolivia decided to suspend all constitutional guarantees, with the exception of

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<sup>217</sup> Página Siete, [Tras incursión de la Resistencia, masistas sacan grupos armados](#), August 11, 2020.

<sup>218</sup> IACHR, [Tweet](#), May 27, 2020.

<sup>219</sup> Minutes of Judge Hugo Huacani Chambi's statement, published in: El Deber, [Juez que liberó a acusada de sedición ve presión psicológica y dice que las salas penales definan si se equivocó o no](#), May 27, 2020. According to the text of the habeas corpus suit [ED: CHECK SPANISH] filed by Judge Huacani before the Constitutional Chamber on duty in La Paz, his capture was carried out by police officers along with other agents "dressed in civilian clothes" and "without any arrest warrant issued by a competent authority or prior summons", RC Noticias, [Documento revela que el ministerio de Gobierno solicitó la detención del juez Hugo Huacani](#), May 24, 2020 and La Jornada, [Fiscalía boliviana desmiente orden contra juez de caso "respiradores"](#), May 23, 2020.

<sup>220</sup> Página Siete, [Judges in emergency after Huacani's irregular detention](#), May 26, 2020.

<sup>221</sup> Página Siete, [Oficial acusa a jefe de Felccpor arresto ilegal del Juez Huacani](#), October 25, 2020.

<sup>222</sup> Information received in the framework of the thematic hearing "Situation of judicial independence and access to information during the COVID-19 pandemic in Bolivia " and Los Tiempos, [Jueza destituida niega afinidad con el MAS y afirma que su despido se debe a causas políticas](#), February 10, 2020 and Correo del Sur, [Cesan a jueza; ella advierte acción política](#), February 8, 2020.

<sup>223</sup> Human Rights Watch, [Justice as a Weapon: Political Persecution in Bolivia](#), September 11, 2020.

<sup>224</sup> Especially, from the thematic hearing "Guarantees of Judicial Independence and Justice Operators in Bolivia," held during the 167th Period of Sessions in 2018, IACHR, [Annex to Press Release 220/18](#), Public Hearings held during the 169th Period of Sessions in Boulder, Colorado, October 19, 2018.

<sup>225</sup> IACHR, [Guarantees for the independence of justice operators](#), 2013. par. 89.

habeas corpus, including constitutional protection, “popular action”, compliance and protection of privacy suits. Said decision was reversed by Circular 6/20208 of the TSJ.<sup>226</sup>

123. In 2020, the Interdisciplinary Group of Independent Experts (GIEI-Bolivia) was installed. Civil society organizations have reported challenges with respect to investigation of the violent events of 2019,<sup>227</sup> including challenges in accessing information guarded by the Security Forces, that is needed for investigations.<sup>228</sup> However, during the GIEI's installation ceremony, the new Bolivian government announced the declassification of military and police archives related to the 2019 repression operations.<sup>229</sup> In a letter sent on October 2 on the rights situation in the country, the State indicated that *"the Public Prosecutor's Office has been working to fight impunity, guarantee respect for and compliance with human rights, and above all with specific institutional measures to guarantee better access to justice."*<sup>230</sup>

124. On the other hand, the IACHR takes note that the Legislative Assembly formed, on March 6, 2020, a Special Joint Commission with the objective of investigating the events that took place between October and November 2019.<sup>231</sup> According to public information of October 29, 2020, the final report of said extrajudicial commission of inquiry had already been approved and would be delivered to the Prosecutor's Office.<sup>232</sup>

125. With regard to reparations for human rights violations, according to civil society organizations, as of November 17, one year after the violations of rights during the violent events of 2019, the next-of-kin of only 12 of the 35 people registered as dead had received the reparation amounts established by Supreme Decree 4176 on Humanitarian Social Aid; and other essential aspects, such as the rehabilitation of injured people, were still pending.<sup>233</sup>

126. Regarding the rights of **human rights defenders**, the Commission learned of the detention of the Vice President of the "Association of Victims of the Senkata Massacre" (AVS), María Cristina Quispe, and the representative of the Permanent Human Rights Assembly of El Alto (APDHEA),

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<sup>226</sup> TSJ, [Circular No. 6/2020](#), April 6, 2020.

<sup>227</sup> In this regard, civil society organizations and academic centers conducted field investigations that recorded multiple testimonies indicating matters of concern regarding the collection of evidence. According to witnesses, security forces allegedly tampered with crime scenes and manipulated photographic evidence, in addition to allegations of irregularities in the autopsies performed on the bodies of those killed. Cf. Harvard Law School's International Human Rights Clinic and University Network for Human Rights, Report ["They Shot Us Like Animals" Black November & Bolivia's Interim Government](#), July 2020, pp. 26-27. In addition, there have been reports of intimidation of victims and witnesses to the crimes. According to reports presented by academic organizations, victims and their families or witnesses are frightened to collaborate with the justice system for fear of reprisals by security agents or the justice system. Cf. Amnesty International, [To Heal the Impunity Pandemic: 20 Human Rights Recommendations for Candidates in Bolivia's 2020 Presidential Elections](#), August 20, 2020, p. 23; Telesur, [Victims of Senkata, Bolivia, denounce impunity in their case](#), September 16, 2020.

<sup>228</sup> Página 12, [El CELS denunció al gobierno de facto de Bolivia ante la ONU por las masacres de Sacaba y Senkata](#), August 18, 2020; Amnesty International, [Para sanar la pandemia de impunidad: 20 recomendaciones en materia de derechos humanos a las personas candidatas en las elecciones presidenciales 2020 en Bolivia](#), August 20, 2020, p. 19.

<sup>229</sup> Sputnik Mundi, [Bolivia will open military and police archives to IACHR mission](#), November 23, 2020. In addition, in early December, according to public information, the High Command of the Armed Forces stated that the Armed Forces would provide all evidence in their custody to the competent authorities.

<sup>230</sup> State of Bolivia, Report on the Situation of Human Rights in Bolivia, October 2, 2020, p. 37.

<sup>231</sup> Senate, [ALP forms Special Mixed Commission to investigate deaths in Senkata and Sacaba in 2019](#), March 6, 2020.

<sup>232</sup> Telesur, [Bolivian Assembly approves final report on the Senkata and Sacabacase](#), October 29, 2020.

<sup>233</sup> Erbol, [A year after Senkata, they denounce that some benefits reached only 12 of 35 victims](#), November 17, 2020.

David Inca Apaza, in November 2020.<sup>234</sup> According to public information, both defenders were arbitrarily detained with excessive use of force by police officers in the context of a protest against the alleged non-compliance with agreements and commitments made by the State to provide humanitarian aid e medical care to the victims.<sup>235</sup> In addition, the Commission received information on alleged acts of violence against members of the organization Ríos de Pie, who were peacefully demonstrating in front of the Parliament.<sup>236</sup> The Commission also received information regarding a campaign of harassment through social networks against former Ombudsman Waldo Albarracín and Franco Albarracín.<sup>237</sup>

127. In relation to **women's rights**, the Commission took note of reports of acts of violence against women and girls,<sup>238</sup> including acts of sexual violence<sup>239</sup> leading to forced pregnancies in girls and adolescents,<sup>240</sup> and of reports of domestic violence against women, particularly during confinement measures to contain the pandemic.<sup>241</sup> The IACHR also noted with concern a report of police violence against a woman, who denounced that she had been illegally detained and a victim of physical and sexual violence.<sup>242</sup>

128. In addition, the IACHR received information indicating that shortcomings in the administration of justice during the pandemic meant that many victims of physical and sexual violence did not have access to justice. For example, several of the hearings were reportedly conducted via videoconference, while many of the victims do not have computers or internet access.<sup>243</sup> According to the information received, calls via the telephone lines set up for the reception of complaints have been answered, and victims lack other ways to file their complaints.

129. Regarding the **rights of children and adolescents**, the Commission noted that, according to the information received, Bolivia has the highest rate of sexual violence in Latin America.<sup>244</sup> The IACHR also received information on the alarming increase in the number of cases of

<sup>234</sup> Página Siete, [Organizaciones manifiestan "indignación" por detención de Inca y Quispe, defensores de DDHH](#), September 23, 2020; La Izquierda Diario, [Pronunciamiento en repudio a la criminalización de defensores de los Derechos Humanos](#), 23 September 2020; OMCT, [Bolivia: Detención arbitraria y posterior puesta en libertad de la Sra. María Cristina Quispe y el Sr. David Inca Apaza](#), October 1, 2020.

<sup>235</sup> Página Siete, [Organizaciones manifiestan "indignación" por detención de Inca y Quispe, defensores de DDHH](#), September 23, 2020; La Izquierda Diario, [Pronunciamiento en repudio a la criminalización de defensores de los Derechos Humanos](#), 23 September 2020; OMCT, [Bolivia: Detención arbitraria y posterior puesta en libertad de la Sra. María Cristina Quispe y el Sr. David Inca Apaza](#), October 1, 2020.

<sup>236</sup> Letter addressed to the President of the Commission, dated October 29, 2020, on file with the IACHR.

<sup>237</sup> Amnesty International, [Urgent action for Waldo and Franco Albarracín](#), October 29, 2020.

<sup>238</sup> Jornada, [9 femicides in first week of 2020 cause alert](#), January 8, 2020.

<sup>239</sup> La Razon, [In January and February there was a rape every 4 hours](#), March 8, 2020.

<sup>240</sup> Urgent Bolivia, [Another tragedy: 7 teenagers get pregnant every hour and 9 girls, every day in Bolivia](#), March 2, 2020.

<sup>241</sup> La Razón, [Hubo 346 denuncias de violencia familiar o doméstica en 16 días de cuarentena](#), April 7, 2002.

<sup>242</sup> Ombudsman's Office, [DP Repudiates Violence against Women](#), August 12, 2020.

<sup>243</sup> Monitoring information received on November 26, 2020 from the organization Fundación una Brisa de Esperanza.

<sup>244</sup> IACHR, Public hearing "Denunciations of sexual violence against adolescents in Bolivia," 172nd regular session, May 8, 2019. Information contributed by the organizations Una brisa de Esperanza, Equality Now, sexual assault survivors. See also: La Razón, ["En enero y febrero hubo una violación cada 4 horas"](#), 8 March 2020 and Urgente, ["Otra tragedia: 7 adolescentes se embarazan cada hora y 9 niñas, cada día en Bolivia"](#), 2 March 2020.

violence against children and adolescents during the COVID-19 health contingency, which, according to information from the Public Prosecutor's Office, worsened during the quarantine<sup>245</sup>. The IACHR also received information on an alleged criminal network that, according to information from the Bolivian authorities, is involved in organ trafficking, including those of children and adolescents. Reportedly, children and women of Haitian nationality were also possibly victims of these acts.<sup>246</sup>

130. In relation to the safety of girls and adolescents, the IACHR highlights the State initiative to declare 2020 the "Year of the Fight Against Femicide and Infanticide, in the face of a wave of registered cases and failures in the judicial system to curb violence of all kinds in the country."<sup>247</sup> Also, in July 2020, the Attorney General's Office decided to create a specialized body to investigate crimes against life and personal integrity, given the increase in the number of murders of children, adolescents, and women in the country.

131. Regarding the **rights of indigenous peoples**, the IACHR received information on racist speeches during the social protests of August 2020 against the postponement of the elections until October of the same year. According to that information, in a speech at the Assembly of the Cruceñidad, the president of the "Comité Pro Santa Cruz" referred to the protesters who manned the blockades - mostly indigenous people - as "beasts".<sup>248</sup>

132. At its 175th session, the IACHR received information on the situation of the Qhara Qhara Nation, which for more than 14 years has been demanding the recognition and collective regulation of its ancestral territory. However, the interests of third parties have resulted in the fragmentation of their lands and a lack of effective response to their claims.<sup>249</sup>

133. The IACHR expressed its concern about the advance of COVID-19 in indigenous peoples in Bolivia, including the Yuqui, Guarayo, Yuracaré, Cayubaba, and Charagua Iyambae peoples. Some of these peoples are considered at risk of extinction due to their high vulnerability.<sup>250</sup>

134. According to different information, from the beginning of the pandemic, the ethnic self-identification variable was not included in the official epidemiological data, which affected the planning of care for indigenous peoples and the treatment of the deceased with an intercultural approach.<sup>251</sup> The lack of consultation and coordination with authorities representing indigenous

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<sup>245</sup> La Racón, "[Niñez, amenazada por la pandemia y la violencia](#)", May 17, 2020. Of the 1,743 cases registered between March and May 2020, 1,370 correspond to family violence, and 94 to cases of rape of children and adolescents, in addition to 24 cases of infanticide and femicide, which occurred between January and May 2020.

<sup>246</sup> Opinión, "[Migration: None of the Haitian children were with their parents; there is organ trafficking](#)," September 8, 2020.

<sup>247</sup> Plurinational State of Bolivia, Office of the Attorney General of Bolivia, Report on the Situation of Human Rights in Bolivia - Information for Chapter IV-A of the Annual Report of the Inter-American Commission on Human Rights 2020, October 2, 2020, p. 45.

<sup>248</sup> La Razón, "[Cívico cruceño se ratifica en llamar 'bestias' a bloqueadores](#)", August 12, 2020.

<sup>249</sup> IACHR, [Hearing - Situation of Indigenous Peoples in Bolivia](#), 175th Period of Sessions, March 6, 2020.

<sup>250</sup> IACHR, [Tweet](#) - June 27, 2020.

<sup>251</sup> CEJIS, [Indigenous Peoples of Bolivia's Lowlands and COVID-19: Report to the UN Special Rapporteur on the Rights of Peoples](#) (June 2020), pp. 10 – 11.

peoples was reportedly a factor in the management of the pandemic and the implementation of health policies in general.<sup>252</sup>

135. Another serious concern expressed has been the continuation of extractive activities in indigenous territories despite quarantine measures imposed by the State, which poses a risk of contagion for indigenous peoples. Likewise, the Commission learned about the lack of respect for measures adopted by some indigenous peoples, such as road closures and self-isolation.<sup>253</sup>

136. Regarding the rights of **persons in the context of human mobility**, the IACHR welcomes the new migration policy adopted by the country during 2020 with a new approach to Venezuelan migration characterized by greater flexibility.<sup>254</sup> With regard to progress in the recognition of refugee status, according to UNHCR data, as of June 1,061 people were recognized as refugees.<sup>255</sup>

137. Although the Venezuelan population in Bolivia has benefited from the new migration policy, the IACHR notes that their living conditions have deteriorated<sup>256</sup> and they have been the target of xenophobic protests.<sup>257</sup>

138. On the other hand, the IACHR warns that the return of Bolivians to the country in the context of the pandemic has been hindered by the closure of the Bolivian borders, which has caused many people to be stranded, mainly affecting those who returned by land.<sup>258</sup> In addition, the Commission notes that camps have been set up in Bolivian border cities for returnees to remain in quarantine for 14 days.<sup>259</sup> However, Bolivian returnees have reported a lack of food and hygiene items.<sup>260</sup>

139. Regarding **human trafficking**, public information indicates that in August 2020, three people were arrested on charges of being part of a network of trafficking in Haitian persons<sup>261</sup>;

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<sup>252</sup> CEJIS, Indigenous Peoples of Bolivia's Lowlands and COVID-19: Report to the UN Special Rapporteur on the Rights of Peoples (June 2020), pp. 10.

<sup>253</sup> CEJIS, Indigenous Peoples of Bolivia's Lowlands and COVID-19: Report to the UN Special Rapporteur on the Rights of Peoples (June 2020), pp. 10 – 11.

<sup>254</sup> Organization of American States, Office of the General Secretariat for the Venezuelan Migrant and Refugee Crisis, Report Situation of Venezuelan Migrants and Refugees in Bolivia - April 2020, May 8, 2020, p. 10.

<sup>255</sup> United Nations High Commissioner for Refugees, Mid-Year Statistical Fact Sheet - Bolivia, August 2020.

<sup>256</sup> El deber, El drama que viven los venezolanos en Bolivia durante la cuarentena, April 6, 2020. See also: Página siete, Migrantes en Bolivia, en desamparo ante la emergencia, March 29, 2020 and Muy waso, Medios y políticos criminalizan a migrantes venezolanos sin respaldo estadístico, September 28, 2020.

<sup>257</sup> Muy waso, Media and politicians criminalize Venezuelan migrants without statistical support, September 28, 2020.

<sup>258</sup> The times, Repatriation in figures: 76% of Bolivians returned by land, May 13, 2020.

<sup>259</sup> Erbol, Habilitan campamento en Pisigapara 300 bolivianos que serán repatriados, April 3, 2020. See also: Los tiempos, Repatriation in figures: 76% of Bolivians returned by land, May 13, 2020. La razón, Gobierno lanza formulario para recibir a más bolivianos en centros de otras tres fronteras, April 7, 2020. La razón, Gobierno instalará otros cinco campamentos para recibir a bolivianos que buscan ingresar al país, April 17, 2020.

<sup>260</sup> La razón, Tension inPisiga, Bolivians who returned from Chile protest and ask the Government for food, April 7, 2020.

<sup>261</sup> Opinion, Detienen a tres personas por trata y tráfico; llevaban 46 haitianos a Chile, 5 August 2020. See also: Noticias por el mundo, Detienen a hombre acusado de trata de personas a través de redes sociales en Bolivia, 22 August 2020.

and that in September, 68 Haitian victims of human trafficking who were in Bolivia illegally were deported.<sup>262</sup> Finally, the IACHR welcomes the operations carried out in La Paz and Santa Cruz in September that resulted in the rescue of survivors of this crime, including three children.<sup>263</sup>

140. Regarding the situation of **lesbian, gay, bisexual, trans, gender diverse and intersex** (LGBTI) persons, the Commission took note of the challenges encountered with protecting and guaranteeing the rights of trans persons. In this regard, the Commission took note of the death of Fernanda Antelo, a 32-year-old trans woman who, according to publicly available information, reportedly died after unsuccessfully seeking medical attention at various health care centers.<sup>264</sup> In addition, the IACHR took note of the armed attack, described by the Ombudsman's Office as attempted femicide, perpetrated against the human rights defender of trans persons Catalina Parada<sup>265</sup> on July 18, 2020. In addition, the IACHR took note of the violent attacks reported on July 3 and 4, 2020 against 2 trans women engaged in sex work in Santa Cruz<sup>266</sup> and the murder of Gabriela Ramirez, a trans woman, who received 19 stab wounds in El Alto, in October 2020.<sup>267</sup>

141. Finally, the Commission welcomes the recognition, through registration in the Civic Registry Service (SERECI), of the free union of the couple formed by two gay men, in compliance with the judgment of the Second Constitutional Chamber of the Departmental Court of Justice of La Paz. The IACHR notes, that the constitutional sentence is based on a number of inter-American standards on equality and non-discrimination, including Advisory Opinion No. 24/2017, of the Inter-American Court of Human Rights. According to information provided to the IACHR, this ruling is still subject to review by the TCP.

## BRAZIL

- **General Considerations**

142. In terms of **progress**, the approval of the ratification of the OAS Inter-American Convention against Racism, Racial Discrimination and Related Intolerance stands out. The IACHR also highlights the decision of the Federal Supreme Court on children and adolescents that determined the end of overcrowding in socio-educational units for adolescents throughout the country by reviewing the measures applied to those adolescents responsible for crimes committed without violence or serious threat and by the application of alternative measures to internment, which would help reduce the high rates of overcrowding in socio-educational (correctional) centers. In addition, the IACHR highlights the enactment of a law that ensures that care services for women in situations of domestic

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Ahora digital, [Detienen a dos mujeres, las acusan de trata de haitianos](#), September 18, 2020. Opinion, ["Covote" goes to Quillacollo jail and driver is with substitute measures](#), September 22, 2020.

<sup>262</sup> La razón, [Bolivia to deport 68 illegal Haitians, alleged victims of human trafficking and smuggling](#), September 5, 2020.

<sup>263</sup> Eju, [Human Trafficking and Smuggling Division succeeds in recovering victims from "traffickers"](#), September 19, 2020.

<sup>264</sup> Erbol, [Transwoman dies in dramatic conditions after pilgrimage to three health centers](#), May 31, 2020.

<sup>265</sup> Defensoría del Pueblo del Estado Plurinacional de Bolivia, [La Defensoría del Pueblo dará seguimiento a las investigaciones de la tentativa de feminicidio en contra de una activista de derechos de las personastrans](#), July 21, 2020.

<sup>266</sup> Página Siete, [Apuñalan a activistatrans, es el tercer ataque al sector en el mes](#), July 20, 2020.

<sup>267</sup> TN8, [Young transsexual is murdered with nineteen stab wounds in Bolivia](#), October 22, 2020.

and intra-family violence are considered essential in the context of the COVID-19 pandemic, as well as judicial decisions that guarantee the right to gender identity of trans persons.

143. In terms of challenges, the IACHR notes the participation of high-level authorities of the executive branch of the State in protests demanding the return of the dictatorial period; laws that seek to limit public health access for migrants in the context of the pandemic; and the disproportionate impact of the pandemic on indigenous peoples, particularly due to the lack of measures to guarantee their health and prevent and mitigate the high levels of contagion.

144. On October 8, 2020, the State submitted a response to the request for information for the preparation of this chapter.<sup>268</sup>

- **Specific topics**

145. In the context of **the COVID-19 health crisis**, the Commission highlights the measures taken to deal with the spread of the virus. On February 23, the first case was confirmed in Brazil. On March 18, it was decided to close educational centers and on March 18, a state of emergency was declared. Social isolation was preventive and compulsory isolation was defined by each state. After some months, Brazil opened its borders. In December, restrictions on the entry of foreigners by land were extended and the entry of tourists will be subject to several requirements.<sup>269</sup> Regarding movement within the country, although there is no mandatory quarantine, some local jurisdictions have decreed restrictions. On December 16, 2020, the National Vaccination Plan was published.<sup>270</sup>

146. The Commission notes the lack of transparency on the part of the State regarding the numbers of infections and deaths due to the pandemic, which were only disclosed after a decision of the Supreme Court of the country.<sup>271</sup> It also notes, with concern, information about speeches made by authorities that, in addition to having contributed to the failure of the containment plans, reportedly indicate attempts to intentionally spread the virus.<sup>272</sup> In this regard, the IACHR observed reports on statements by public authorities that would encourage crowds of people, in contradiction to the recommendations of national and international health institutions<sup>273</sup>; as well as the dismissals of the Minister of Health and the Ministry of Education in the context of the pandemic, following internal contradictions about the actions to address the spread of Covid-19.<sup>274</sup> According to public

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<sup>268</sup> Federative Republic of Brazil, Inter-American Commission on Human Rights Annual Report 2020 Chapter IV, Volume 1, Section A State Information October 2020, IACHR files, October 8, 2020.

<sup>269</sup> U.S. Embassy in Brazil, "[Covid-19 information](#)".

<sup>270</sup> Ministry of Health, "[National Covid-19 vaccination operationalization plan](#)," December 16, 2020.

<sup>271</sup> G1, "[Government obeys STF order, and Ministry of Health again releases complete covid data](#)," June 9, 2020.

<sup>272</sup> El País, "[Study finds that Brazil's Jair Bolsonaro carried out an 'institutional strategy to spread the coronavirus'](#)," January 29, 2020; see also: Conectas Derechos Humanos and São Paulo University, "[Rights in the pandemic: Mapping the impact of Covid-19 on human rights](#)," January 202, 2021; Reuters, "[Brazil's Bolsonaro sabotaged anti-COVID-19 efforts, says Human Rights Watch](#)," January 13, 2021.

<sup>273</sup> DW, "[Resposta de Bolsonaro à pandemia de coronavírus polariza sociedade](#)," March 31, 2020; see also: Correio Braziliense, "[Bolsonaro diz que fará churrasco para uns 30 convidados no sábado](#)," May 7, 2020.

<sup>274</sup> El País, "[Brazilian education minister resigns, who urged sending supreme court judges to jail](#)," June 18, 2020.



information, all of the above allegedly tripled the risk of death due to complications of COVID-19 in Brazil, compared to other countries in the world.<sup>275</sup>

147. The IACHR reiterates the importance of considering the scientific guidelines of national and international health institutions, as well as regulating measures aimed at guaranteeing the right to health in accordance with the recommendations of the IACHR, contained in Resolutions [No. 01/2020](#) and [No. 4/2020](#).

148. In the area of **human rights institutions**, the IACHR welcomes the publication of a technical note with recommendations on the COVID-19 pandemic by the State Mechanism to Prevent and Combat Torture in Rio de Janeiro.<sup>276</sup> It also takes note of the launching of the National Anti-Corruption Plan.<sup>277</sup>

149. On the other hand, the Commission highlights the resignation of the director of environmental protection of the Brazilian Institute of Environment and Renewable Natural Resources (IBAMA) by the Minister of Environment after the coordination of an action of the Institute against irregular mining (garimpo) in indigenous peoples' territories.<sup>278</sup>

150. Similarly, the IACHR welcomes the decision of Brazil's Supreme Federal Court (STF) that restricted the scope of a presidential decree of the Executive Branch that sought to exempt public officials from liability for civil and administrative offenses committed in the context of the pandemic.<sup>279</sup>

151. With regard to **democratic institutions**, the Commission notes with concern reports of the participation of high-level authorities of the executive branch of government in protests calling for the return of the military dictatorship.<sup>280</sup> According to public information, these protests sought the closure of the National Congress and the dismissal of the Supreme Court.<sup>281</sup> Among the demands of the protesters was the re-adoption of Institutional Act No. 5 (AI-5) which, in the framework of the military dictatorship, concentrated power in the hands of the Executive, closed the parliament, suspended individual rights such as habeas corpus and the right to adversarial proceedings and defense, and allowed the possibility of imprisonment without legal grounds.<sup>282</sup> Likewise, the IACHR

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<sup>275</sup> BBC News, [Risk of dying from covid-19 in Brazil was more than 3 times higher than the rest of the world in 2020, economist calculates](#), February 3, 2021.

<sup>276</sup> Legislative Assembly of Rio de Janeiro, [Mechanism to combat torture issues technical note on the impact of the coronavirus on the prison system](#)", April 24, 2020.

<sup>277</sup> Presidency of the Republic, ["Anti-corruption Plan"](#), December 9, 2020.

<sup>278</sup> Congresso em Foco, [Salles fires Ibama director after operation against illegal garimpeiros](#), April 14, 2020.

<sup>279</sup> Jornal O Globo, [STF restricts the scope of the measure that frees public agents from lawsuits](#), May 21, 2020.

<sup>280</sup> Amnesty International, [Amnesty International repudiates pro-military regime demonstrations](#), 2020.

<sup>281</sup> O Globo, [Bolsonaro goes to act with crowds of protesters and calls for military intervention](#), April 19, 2020. See also: Estado de Minas, ['Presidente cruzou o Rubicão; sorte da democracia está lançada'](#), diz OAB, April 19, 2020; AMB, [AMB vê com preocupação manifestações que pedem o fechamento do STF](#), April 29, 2020; Globo, [Maia diz que 'cabe às instituições democráticas impor ordem legal ao grupo que confunde política com terror'](#), May 3, 2020; Reuters, [Threat of Brazil military coup unfounded, retired generals say](#), June 22, 2020.

<sup>282</sup> Estadão, [Ministros do Supremo repudiam ato a favor de intervenção militar visitado por Bolsonaro](#), April 19, 2020. See also: UOL Notícias, ["Não queremos negociar nada", diz Bolsonaro em manifestação que pedia AI-5](#), April 19, 2020.



became aware of information in the public domain on the discourse of high-ranking government officials who defended the imprisonment of the Supreme Court judges.<sup>283</sup>

152. Similarly, the IACHR notes the information that high-level authorities of the executive branch of the State are under investigation for disseminating fake news with the aim of deepening the institutional rift between the branches of government.<sup>284</sup> In addition, the IACHR takes note of reports that high-ranking State authorities are allegedly attempting to interfere in judicial investigations for personal gain,<sup>285</sup> as well as in acts that correspond exclusively to the armed forces.<sup>286</sup> For its part, the Commission learned that the Ministry of Justice is monitoring around 600 security agents who have been called "anti-fascists", as well as professors described as "opinion formers" and human rights defenders.<sup>287</sup>

153. In this regard, the Commission reminds the State of the fundamental role of independence in the actions of all public authorities and oversight institutions, particularly the judiciary and the legislature, whose independence must be ensured. The IACHR reiterates that, in a democratic society, the rule of law and human rights constitute a whole, where each of the institutional components defines, completes, and acquires mutual meaning. Based on this substantive link, the Commission calls on the State to guarantee the validity of democratic institutions in accordance with the Constitution and its procedures.

154. With regard to **citizen security**, the Commission welcomes the decision of the Brazilian Supreme Court to suspend the actions of security agents in the favelas during the pandemic, except in absolutely exceptional cases. This, in order to address various problems arising from police interventions, including lethality in the use of police force.<sup>288</sup> Along the same lines, the State has informed the IACHR about the incentive to establish community security councils that aim to generate security strategies with the participation of the population. In this regard, in 2020, 2,447 councils were in force.<sup>289</sup>

155. However, the IACHR highlights the information of a 7.1% increase in homicides in the country in the first semester of 2020 compared to the same period of the previous year.<sup>290</sup> In this

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<sup>283</sup> El País, [Brazilian education minister resigns, who urged sending Supreme Court justices to jail](#), June 18, 2020.

<sup>284</sup> Bloomberg, [Fake News Probe Fuels Crisis between Bolsonaro and Top Court](#), May 27, 2020.

<sup>285</sup> Estadão, [Joice protocols impeachment of Bolsonaro for trying to obstruct investigation of sons](#), April 25, 2020; See also: WSJ, [Brazil's President Bolsonaro Accused of Seeking to Influence Rio Police](#), May 5, 2020.

<sup>286</sup> CNN, [Federal prosecutors point to Bolsonaro's interference in the Army](#), April 27, 2020.

<sup>287</sup> Yahoo Noticias, [Ministério da Justiça monitora agentes de segurança pública antifascistas e cria 'dossiê' sigiloso](#), July 24, 2020. See also: UOL, [Ação sigiloso do governo mira mira professores e policiais antifascistas](#), July 24, 2020; G1, [MPF do RS pede informações a Ministério da Justiça sobre alleged monitoramento de agentes antifascistas](#), July 28, 2020; Sul 21, [MPF vai investigar ação do Ministério da Justiça e Segurança Pública para monitorar 579 pessoas](#), July 27, 2020; MPF, [MPF insta procedura para apurar ação do Ministério da Justiça e Segurança Pública para monitorar 579 pessoas](#), July 27, 2020; Rede Brasil Atual, [Governo Bolsonaro faz monitoramento de jornalistas e lista 'detratores'](#), December 1, 2020; Congresso em Foco, [MPF vai apurar dossiê do Ministério da Justiça contra servidores antifascistas](#), July 27, 2020.

<sup>288</sup> Federative Republic of Brazil, Inter-American Commission on Human Rights Annual Report 2020 Chapter IV, Volume 1, Section A State Information October 2020, IACHR files, October 8, 2020, p. 5.

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<sup>290</sup> Fórum Brasileiro de Segurança Pública, Anuário Brasileiro de Segurança Pública, 2020 Edition, p. 12.

regard, according to public information, São Paulo recorded the highest number of violent acts in the month of March of the past seven years.<sup>291</sup> In turn, there was a 6% increase in the number of victims of police violence, while 110 security agents were killed.<sup>292</sup> According to public information, in the state of Rio de Janeiro, crimes committed by police officers increased by 43% in the context of the COVID-19 pandemic containment measures.<sup>293</sup>

156. The Commission also took cognizance of a regulation of the President of the country that increases the amount of ammunition that can be acquired by those who own arms.<sup>294</sup>

157. With respect to **access to justice**, the IACHR noted positively the resolution of the National Council of Justice that established criteria for virtual hearings and other procedural acts in the framework of pandemic containment measures, with the exception of custody hearings.<sup>295</sup> The Commission also took note of the action by the Public Defender's Office of São Paulo to request habeas corpus for 3,089 elderly persons deprived of liberty in the context of the pandemic.<sup>296</sup>

158. Regarding the rights of **children and adolescents**, the IACHR monitored the situation of adolescents in connection with compliance with socio-educational measures. In this regard, the Commission welcomes the decision of the Federal Supreme Court, which determined the end of the overcrowding of socio-educational (correctional) units for adolescents throughout the country by reviewing the measures applied to those adolescents responsible for crimes committed without violence or serious threat and by applying alternative measures to internment,<sup>297</sup> to help reduce the high rates of overcrowding in socio-educational centers.<sup>298</sup> Likewise, in the context of the COVID-19 pandemic, the Commission welcomes the State's initiative, through the National Secretariat for Children's Rights, which recommended that the services provided by Guardianship Councils should not be suspended during quarantine and social isolation measures.<sup>299</sup>

159. On the other hand, the IACHR notes with concern the data from the National Immunization Program indicating a decrease of up to 27% in the coverage of vaccines for children up to 1 year of<sup>300</sup> age. Likewise, it warns that, according to statistics from the National Human Rights

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<sup>292</sup> Brazilian Public Security Forum, Anuário Brasileiro de Segurança Pública, 2020 Edition, p.12.

<sup>293</sup> Folha, Deaths by policemen grow 43% in RJ during quarantine, in the opposite direction of crime, May 26, 2020.

<sup>294</sup> Globo, Government publishes ordinance that increases ammunition purchase limit for those with registered guns, April 23, 2020.

<sup>295</sup> IACHR, [Tweet](#), June 23, 2020; Portal CNJ, CNJ regulates videoconferencing in the criminal area with veto in custody hearing, July 10, 2020.

<sup>296</sup> Globo, Defensoria Pública asks STF to free 3,000 elderly prisoners in the state of SP due to coronavirus, July 27, 2020.

<sup>297</sup> Supreme Court, Decision in Habeas Corpus No. 143.988/ES: overcrowding in juvenile detention centers, August 21, 2020.

<sup>298</sup> CONJUR, Não pode haver superlotação em unidades socioeducativas, define STF, August 24, 2020. G1, STF determines end of overcrowding in juvenile detention centers nationwide, August 22, 2020.

<sup>299</sup> Ministério da Mulher, da Família e dos Direitos Humanos, Carta de Orientações sobre o trabalho desenvolvido pelos Conselhos Tutelares, IACHR file, March 31 2020.

<sup>300</sup> Folha de São Paulo, For the first time in the century, Brazil does not reach the goal for any of the main childhood vaccines, September 7, 2020.

Ombudsman's Office, there has been an increase in violence suffered by children and adolescents.<sup>301</sup> In addition, the IACHR takes note of the decree adopted by the State that creates the National Policy on Special Education,<sup>302</sup> which prioritizes the education of children and adolescents with disabilities in special educational units, which may result in their exclusion from the general education system, contrary to the principle of inclusive education provided for in the International Convention on the Rights of Persons with Disabilities.<sup>303</sup>

160. In relation to **internal displacement**, the most recent figures from the Internal Displacement Monitoring Center (IDMC) show that in 2019 there were 295,000 new displacements related to natural disasters, the highest figure since 2009.<sup>304</sup> This upward trend continued during the first half of 2020, with a total of 163,000 new displacements.<sup>305</sup>

161. Regarding the situation of **persons in human mobility**, the Commission noted the difficulties caused by the COVID-19 pandemic, in addition to the pre-existing obstacles in accessing Brazilian public assistance services, such as: i) obtaining documents, one of the requirements of the Cadastro de Pessoas Físicas (CPF) for accessing emergency assistance; ii) lack of awareness of their rights; and iii) linguistic and cultural barriers that hinder access to information.<sup>306</sup> Additionally, the IACHR notes that through the application of a simplified asylum procedure that adopts the expanded definition of refugee contained in the Cartagena Declaration, by August 2020 a total of 46,000 Venezuelan persons were reportedly recognized as refugees.<sup>307</sup> Along these lines, the Commission received with concern information regarding Law No. 2074/2020 of Boa Vista, Roraima, which seeks to limit public access to health care for migrants.<sup>308</sup>

162. In relation to **human trafficking**, the Commission takes note of the "*Liberdade no Ar*" campaign promoted by the Ministry of Justice and Public Security (MJSP) and the Ministry of Labor. This campaign seeks to get airline personnel to collaborate in the identification of potential victims of human trafficking.<sup>309</sup> Similarly, the IACHR notes the willingness of the MJSP to distribute 495,000 passports in the states where there have been more reports of human trafficking. This is due to the fact that these identification documents have a QR code and a direct link to the authorities, which would allow the identification of these victims.<sup>310</sup>

<sup>301</sup> Culture, "[Violence against children grows nationwide](#)," May 6, 2020.

<sup>302</sup> Federative Republic of Brazil, [Decree No. 10.502: Institui a Política Nacional de Educação Especial: Equitativa, Inclusiva e com Aprendizado ao longo da Vida](#), September 30, 2020.

<sup>303</sup> Federative Republic of Brazil, [Decree No. 6.949: Promulgates the International Convention on the Rights of Persons with Disabilities and its Optional Protocol, signed in New York on March 30, 2007](#), August 25, 2009.

<sup>304</sup> IDMC, [Brazil - Country Information](#), April 2020.

<sup>305</sup> IDMC, [2020 Mid-year Update](#), August 2020, p. 37.

<sup>306</sup> Ministério Público da União - Ministério Público do Distrito Federal e Territórios - Núcleos de Direitos Humanos - NDH, Brazil, Technical Note no 01/2020 - TEMA: Fomento à execução de política pública acerca da garantia de usufruto de direitos à população imigrante em território nacional, July 14, 2020, p. 3.

<sup>307</sup> UNHCR, [Brazil recognizes another 7,700 Venezuelan persons as refugees](#), August 28, 2020.

<sup>308</sup> IACHR, [Tweet](#), February 17, 2020.

<sup>309</sup> Brazilian Ministry of Justice and Public Security, [MJSP supports campaign against human trafficking](#), July 15, 2020.

<sup>310</sup> Brazilian Ministry of Justice and Public Security, [MJSP supports campaign against human trafficking](#), July 15, 2020.

163. Regarding women's **rights**, the Commission welcomes the enactment of Law 14.022/2020, which establishes, among other measures, that services for women in situations of domestic and intra-family violence are considered essential, and helps to ensure the continuity of these services during the pandemic.<sup>311</sup> Additionally, it takes note of the initiative of the Civil Police of São Paulo, which began to register crimes of domestic violence via the Internet<sup>312</sup>, as well as the information that 16 public defender's offices in the country have requested that pregnant women serving custodial sentences may serve their sentences at home during the pandemic.<sup>313</sup>

164. At the same time, the IACHR is extremely concerned about the impact of the pandemic on violence against women. According to information, despite a decrease of 9.9% in the number of records of violence - which depend on the appearance of the victim at the police station - in the first half of 2020 compared to the previous year, the number provided by the State for complaints received by phone was 147,379 calls, an increase of 3.8% compared to the previous year.<sup>314</sup> The State of Rio de Janeiro recorded a 50% increase during the social confinement for pandemic containment compared to the same period last<sup>315</sup> year. State authorities have also announced a 35% increase in reports of violence in the context of the pandemic.<sup>316</sup>

165. The Commission received information indicating that in the first six months of 2020, 648 women were murdered in the country, an increase of 1.9% over the same period of 2019.<sup>317</sup> In this regard, the IACHR notes that, according to official data, the State of Mato Grosso registered between March and August the highest average in the country, accounting for 1.72 cases per 100 thousand women, compared to 0.56 at the national level.<sup>318</sup> The IACHR highlights the intersectionality between gender and ethno-racial characteristics of violence against women in Brazil. According to information, Afro-descendent women account for 59% of the total number of victims, which represents an increase over the previous year. In Minas Gerais, for example, 61% of the victims of domestic violence are of African descent.<sup>319</sup> Moreover, seven out of ten of the victims of femicide in São Paulo were killed inside their homes,<sup>320</sup> which poses a problem with respect to the confinement measures during the pandemic.

166. The Commission also notes with concern the actions of the State regarding the sexual and reproductive health of women. In this regard, the Commission learned of regulations of the National Agency for State Health Surveillance that, according to public information, hinder the provision of misoprostol for the safe termination of pregnancy in cases authorized by current legislation.<sup>321</sup> Likewise, the IACHR highlights the disclosure of the opinion of the Executive against a

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<sup>311</sup> ConJur, [The new law to combat violence against women](#), July 16, 2020.

<sup>312</sup> Globo, [SP police start registering domestic violence crimes online to help victims during quarantine](#), April 3, 2020.

<sup>313</sup> UOL News, [Covid: Public defenders in 16 states ask for freedom for pregnant prisoners](#), August 11, 2020.

<sup>314</sup> Brazilian Public Security Forum, *Anuário Brasileiro de Segurança Pública*, 2020 Edition.

<sup>315</sup> Globo, [Cases of domestic violence in RJ grow 50% during confinement](#), March 23, 2020

<sup>316</sup> Infobae, [Brazil sees 35% increase in reports of violence against women during pandemic: minister](#), May 15, 2020.

<sup>317</sup> Brazilian Public Security Forum, *Anuário Brasileiro de Segurança Pública*, 2020 Edition.

<sup>318</sup> Catarinas, [Mato Grosso is the state with the highest rate of femicide in the pandemic](#), October 9, 2020.

<sup>319</sup> Ponte, [In Minas Gerais, 61% of women victims of domestic violence are black](#), October 8, 2020.

<sup>320</sup> Agência Brasil, [Seven out of 10 victims of femicide in SP were killed at home](#), April 13, 2020.

<sup>321</sup> El País, [A regra da Anvisa que prolonga o sofrimento de mulheres](#), February 22, 2020.

note of the Ministry of Health that declared that the processes of voluntary interruption of pregnancy, in cases provided by law, should be considered essential services.<sup>322</sup> In this sense, the Executive signed a decree that established, in the guidelines of the State, the "defense of life from conception".<sup>323</sup>

167. Regarding the rights of **lesbian, gay, bisexual, trans, gender diverse and intersex (LGBTI) people**, the Commission welcomes the decision of the Federal Supreme Court to declare unconstitutional the limitations for gay and bisexual men to donate blood. In addition, it highlights the publication of the resolution of the National Council of Justice, which guarantees that the gender identity of trans persons deprived of liberty,<sup>324</sup> as well as trans adolescents in compliance with socio-educational measures, is respected based on their right to self-determination.<sup>325</sup> In a similar vein, the Commission notes with satisfaction the judicial decision authorizing a non-binary person to adjust his or her identity documents with the inscription "sex not specified".<sup>326</sup>

168. The Commission receives with concern reports of discrimination and violence against LGBTI persons or persons perceived as such. In this regard, at least 184 violent deaths of LGBTI persons were recorded, of which at least 152 were trans<sup>327</sup> persons. This represents an increase of 22% compared to the previous<sup>328</sup> year. In particular, the Commission notes with concern the situation of violence and death threats received by trans women councilors, both candidates and elected, and their work teams.<sup>329</sup> The Commission also notes with concern the reports of violence faced by trans women deprived of their liberty.<sup>330</sup>

169. On the situation of **people of African descent and against racial discrimination**, the Commission welcomes the approval of the ratification of the OAS Inter-American Convention against Racism, Racial Discrimination and Related Intolerance.<sup>331</sup> The IACHR recognizes that universal ratification of inter-American instruments is an indispensable step towards respect for all human

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<sup>322</sup> Correio Brasiliense, [Após nota da Saúde que cita aborto, Bolsonaro afirma que é contra a prática](#), June 3, 2020.

<sup>323</sup> Istoé, [Government signs decree that defines "right to life from conception"](#), October 27, 2020.

<sup>324</sup> IACHR, [IACHR welcomes Supreme Court decision to declare unconstitutional the rules that limited blood donation by gay and bisexual men](#), May 9, 2020; El País, [In historic decision, STF overturns restriction on blood donation by homosexuals](#), May 8, 2020.

<sup>325</sup> IACHR, [IACHR hails CNJ oficial resolution](#), October 7, 2020; Portal CNJ, [LGBTI: CNJ reconhece identificação de gênero no sistema prisional](#), October 2, 2020.

<sup>326</sup> Jornal O Globo, [In unprecedented decision in Rio, Justice authorizes non-binary person to have document with the inscription 'sex not specified'](#), September 20, 2020.

<sup>327</sup> ANTRA, [Murders of trans people in the first ten months of 2020](#), November 4, 2020; Revista Híbrida, [In 2020, Brazil remains world leader in murders of trans people](#), November 17, 2020; Ambito, [Brasil lidera el ranking mundial de asesinatos de personas LGBT](#), January 29, 2021.

<sup>328</sup> Antra, [Murders against Brazilian transvestites and transsexuals in 2020](#), November 4, 2020.

<sup>329</sup> ANTRA, [We request a meeting with representatives of the IACHR through the LGBTI and Women's Rapporteurship on measures to protect elected trans councilwomen who have been threatened](#), December 15, 2020.

<sup>330</sup> Globo, [Rape and torture: unprecedented federal government report points out the drama of trans women incarcerated in male prisons](#), January 6, 2020; Globo, [Trans women prisoners face prejudice, abandonment and violence](#), March 1, 2020.

<sup>331</sup> Chamber of Deputies, [Chamber approves proposal that ratifies the Inter-American Convention against Racism](#), December 9, 2020.

rights and an effective demonstration of a serious commitment to the prevention and eradication of racial discrimination.

170. On the other hand, in relation to cases of police violence and disproportionate use of force, the Inter-American Commission expressed concern about the increase in police lethality in 2020, warning about the information that 8 out of 10 fatal victims of the Brazilian police are people of African descent.<sup>332</sup>

171. In this regard, the Commission reiterates to the States their obligation to combat structural racial discrimination, the practice of racial profiling, the militarization of police forces, and impunity in cases of homicides committed by police officers, as well as to strengthen accountability mechanisms for police activity.

172. Additionally, the IACHR noted with concern the disproportionate impact of COVID-19 on people of African descent, particularly due to the high number of cases in geographic areas of concentration of this ethnic-racial population such as favelas and quilombola communities.<sup>333</sup> According to available public sources, in the city of Rio de Janeiro, the overcrowded and unsanitary conditions make it difficult to implement isolation measures to contain the pandemic, as in the case of the "Rocinha" neighborhood, where one in four of the people tested were reportedly infected by June 2020,<sup>334</sup> On the other hand, according to data from civil society organizations, through February 2021, 4897 infections and 192 deaths had been registered in quilombola<sup>335</sup> communities.

173. Regarding the quilombola communities and their collective territorial property rights, the IACHR expressed concern about Resolution No. 11, dated March 26, 2020, issued by the Development Committee of the Brazilian Space Program, which approved the rules for prior consultation of the quilombola communities for the consolidation of the Alcântara Space Center, which would impact 800 quilombola families at risk of being evicted. The IACHR notes that the eviction of the quilombola communities was subsequently suspended until the right to free, prior, and informed consent was guaranteed,<sup>336</sup> as well as the eviction of 14 families from the Quilombo Campo Grande Community on August 12, 2020, in Minas Gerais.<sup>337</sup>

174. Regarding the rights of **indigenous peoples**, the IACHR received information on the impacts of the COVID-19 pandemic on the indigenous peoples of the Amazon in Brazil, in particular

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<sup>332</sup> Human Rights Watch, [World Report 2021 | Human Rights Watch](#), February 22, 2021. In the same vein, the IACHR condemned the case of a woman of African descent who was assaulted by a police officer who stepped on her neck with the intention of immobilizing her; she was then dragged along the ground in Parelheiros, São Paulo. On July 14, 2020, four police officers violently tackled and choked Jefferson André da Silva, a young man of African descent during a protest. Also, the IACHR learned of the death of João Alberto Silveira Freitas, on November 19, 2020 in Rio Grande do Sul, after being brutally beaten by private security agents in a supermarket.

<sup>333</sup> IACHR, Press Release No. 092 - [The IACHR and its REDESCA call on the States of the region to guarantee the rights of Afro-descendants and prevent racial discrimination in the context of the COVID-19 pandemic](#), April 28, 2020.

<sup>334</sup> NPR, [COVID-19 Infection Rate In Rio's Favelas Far Exceeds Official Count, A New Study Says](#), June 25, 2020.

<sup>335</sup> Coordenação Nacional de Articulação das Comunidades Negras Rurais Quilombolas (CONAQ), [Observatório da Covid-19 nos Quilombos](#), February 2, 2021.

<sup>336</sup> IACHR, Press Release No. 092, [The IACHR and its REDESCA call on the States of the region to guarantee the rights of Afro-descendants and prevent racial discrimination in the context of the COVID-19 pandemic](#), April 28, 2020; See also Brasil de Fato, [Suspensão do despejo de quilombolas de Alcântara não resolve o conflito na região](#), May 13, 2020.

<sup>337</sup> Document submitted by civil society, contributions from the Observatory for the Protection of Human Rights Defenders, BRA 001/ 0820 / OBS 097 Forced Eviction / Excessive Use of Force, Brazil, August 25, 2020.

the lack of measures to guarantee their health and counteract the rapid spread of the pandemic in indigenous communities. This situation has been aggravated by the continuous threats they suffer as a result of the lack of demarcation and effective protection of their lands, the weakening of environmental control, and the presence of illegal loggers and miners who pose risks to the health and environment of indigenous peoples. The State reported on the existence of State measures and policies to address health and nutrition in indigenous territories, including food aid, contingency plans, and sanitary barriers.

175. Throughout 2020, the IACHR received information on the disproportionate impact of the HIV/AIDS pandemic on indigenous peoples, particularly in the Amazon, due to the precariousness of access to health and other social services, and the constant threats to ancestral territories. Of particular concern has been the situation of indigenous peoples in isolation and initial contact, due to, among other factors, their particular immunological vulnerabilities. On July 17, 2020, the IACHR granted precautionary measures in favor of members of the Yanomami and Ye'kwana Indigenous Peoples as a result of complaints received regarding the risks they face due to the COVID-19 pandemic, considering their particular immunological vulnerability, failures in the health system, the presence of third parties in their territory, mercury contamination and acts of violence against their leaders. The IACHR requested Brazil to adopt the necessary measures to protect the rights to health, life, and personal integrity of the members of these peoples, implementing, from a culturally appropriate perspective, preventive measures against the spread of COVID-19, as well as providing them with adequate medical care in conditions of availability, accessibility, acceptability, and quality.<sup>338</sup>

176. The **situation of persons deprived of liberty** in the country is one of the main concerns of the IACHR. Brazil is the country with the third largest prison population in the world.<sup>339</sup> The most recent official figures report, as of December 2019, an overcrowding rate of 170.7%, as well as an increase in this population of 224.5%, between 2019 and 2020.<sup>340</sup> In this regard, by press release of August 8, the IACHR reiterated its concern about the deplorable detention conditions that characterize Brazilian prisons, including extremely high levels of overcrowding, poor infrastructure, negligent medical care, complete lack of hygiene, absence of basic necessities and inadequate food. In particular, the Commission noted that such conditions would create an environment conducive to the proliferation and spread of COVID-19.<sup>341</sup>

177. In the context of the pandemic, the IACHR has welcomed initiatives adopted by the State to protect this population. These include: i) the initiative of the National Council of Justice (CNJ) recommending that judicial authorities reduce the prison population through the application of alternative measures,<sup>342</sup> and ii) the actions taken by the National Penitentiary Department (Depen) to prevent the spread of the virus in prison systems, such as the development of control and prevention

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<sup>338</sup> IACHR. Resolution 35/2020. Precautionary Measure No. 563-20. Members of the Yanomami and Ye'kwana Indigenous Peoples regarding Brazil, July 17, 2020.

<sup>339</sup> World Prison Brief, Institute for Crime & Justice Policy Research. Highest to lowest prison population total.

<sup>340</sup> National Penitentiary Department, Ministry of Justice and Public Safety. Databases, December 2019.

<sup>341</sup> IACHR, Press Release 195/20 - The IACHR expresses its concern about the situation of persons deprived of liberty in Brazil, in the face of the COVID-19 pandemic. Washington, D.C., August 8, 2020.

<sup>342</sup> IACHR, Press Release 66/20 - The IACHR urges States to guarantee the health and integrity of persons deprived of liberty and their families in the face of the COVID-19 pandemic. Washington, D.C., March 31, 2020.



protocols.<sup>343</sup> Despite the above, the IACHR noted with concern the high rates of infection and death from COVID-19 in Brazilian penitentiaries. Thus, according to information from Depen, in mid-December there were a total of 39,905 infections, 20,674 suspected cases, and 126 deaths.<sup>344</sup> Likewise, civil society organizations informed the IACHR that prison conditions would not allow compliance with the recommended measures for social distancing, nor with the minimum health conditions.<sup>345</sup>

178. In relation to **persons with disabilities**, the IACHR highlights the creation of the Interagency Working Group for the regulation of Article 2 of Law No. 13,146 on the Inclusion of Persons with Disabilities<sup>346</sup> and the proposal of administrative acts for the unification of the biopsychosocial evaluation of disability at the federal<sup>347</sup> level. The Commission recalls that the participation of persons with disabilities in the design and implementation of public policies must be guaranteed by the State, in compliance with its international obligations.

179. However, the IACHR is concerned about the persistence of structural discrimination factors that affect persons with disabilities,<sup>348</sup> especially those related to access to education and the labor market,<sup>349</sup> a situation that has been aggravated by the COVID-19 pandemic.<sup>350</sup> In this regard, the IACHR received information on Bill 6.159/19, which would limit incentives for the private sector to hire persons with disabilities.<sup>351</sup>

180. In relation to the rights of **human rights defenders**, the Commission learned about the assassination of Paulo Silva Filho, a well-known land rights defender, on February 22, 2020, in Ourilândia do Norte, in southern Pará, in the Amazon region of Brazil.<sup>352</sup> The Commission also learned about the murder of social leaders Adão do Prado and Airton Luis Rodrigues da Silva, of the Landless Rural Workers Movement, perpetrated, according to public information, on April 30 in the municipality of Nova Santa Rita, Rio Grande do Sul.<sup>353</sup>

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<sup>343</sup> IACHR, Press Release 195/20 - The IACHR expresses its concern about the situation of persons deprived of liberty in Brazil, in the face of the COVID-19 pandemic. Washington, D.C., August 8, 2020; IACHR, Press Release 212/20 - Faced with the COVID-19 pandemic, the IACHR expresses concern about the special situation of risk faced by persons deprived of liberty in the region. Washington, D.C., September 9, 2020.

<sup>344</sup> National Penitentiary Department (Depen). Medidas de Combate a Covid-19, Painéis de Monitoramento, updated December 15, 2020.

<sup>345</sup> IACHR, Press Release 195/20 - The IACHR expresses its concern about the situation of persons deprived of liberty in Brazil, in the face of the COVID-19 pandemic. Washington, D.C., August 8, 2020.

<sup>346</sup> Presidency of the Republic, Law No. 13,146, July 6, 2015.

<sup>347</sup> Official Gazette of the Union, Decree No. 10.415, July 6, 2020.

<sup>348</sup> Correio Braziliense, Deficientes encontram entraves para trabalho e estudo no Brasil, September 21, 2020.

<sup>349</sup> Jornal da USP, People with different types of disabilities have lower pay and opportunities in the labor market, October 19, 2020.

<sup>350</sup> Veja, Brazil eliminates more than 23,000 formal jobs for the disabled by 2020, September 21, 2020.

<sup>351</sup> Migalhas, The bill 6.159/19 and the suggested changes to the hiring quota for people with disabilities, May 19, 2020.

<sup>352</sup> Front Line Defenders, The murder of Paulo Silva Filho raises concerns about the situation of land rights defenders in Pará, February 28, 2020.

<sup>353</sup> Sul21, Two MST militants are murdered in Nova Santa Rita (RS), May 1, 2020

181. With regard to **memory, truth, and justice**, the IACHR learned that the Federal Public Prosecutor's Office filed new complaints with the Judiciary regarding serious human rights violations committed during the civil-military dictatorship, including one concerning the victim Vladimir Herzog.<sup>354</sup> However, the Commission has received with concern information that this criminal complaint was rejected weeks later based, among other reasons, on the provisions of the Amnesty Law.<sup>355</sup> The IACHR has also taken note of the application of the statute of limitations by the Superior Court of Justice to the crime of concealment of the body of Rubens Paiva, a victim of forced disappearance during the military regime.<sup>356</sup>

182. According to information in the public domain, the Amnesty Commission reportedly reviewed hundreds of reparations granted in previous years without conducting an individualized analysis of the cases or respecting due process.<sup>357</sup> Likewise, the IACHR learned that only 11 requests for reparations were granted by the body in 2020, while 1,166 were rejected, a number of rejections 3.5 higher than in the previous year.<sup>358</sup> The IACHR has also observed changes in the Regulations of the Special Commission on Political Deaths and Disappeared Persons (CEMDP) that restrict the initiative and continuity of actions to search for victims of forced disappearance during the dictatorship.<sup>359</sup> Additionally, in terms of memory, the IACHR received information on different initiatives and situations that indicate that institutional channels of communication are being used to honor perpetrators of serious human rights violations, extol measures of impunity, or commemorate events related to the democratic rupture that occurred in 1964.<sup>360</sup> The IACHR stresses that any public policy related to memory must be focused on the State's recognition of the facts and its responsibility for the serious human rights violations that occurred; must be based on documentary and testimonial evidence; and must be forged with the participation of the victims and civil society.<sup>361</sup>

183. Regarding **freedom of expression**, during 2020, hostility towards the practice of journalism and the free operation of the media intensified. President Jair Bolsonaro continued his stigmatizing discourse towards the press, which has included verbal aggressions and threats, especially against women journalists. This, as reported by several civil society organizations, has

<sup>354</sup> Ministério Público Federal, MPF denounces former dictatorship agent and coroners for death of political activist in 1976, January 24, 2020; Ministério Público Federal, MPF denounces six former agents of the dictatorship for the murder of Vladimir Herzog, March 17, 2020; Ministério Público Federal, On the anniversary of the military coup, MPF offers new complaint against former agent of the dictatorship, March 31, 2020; Ministério Público Federal, MPF denounces torturers of the "House of Death" of the military dictatorship, July 16, 2020; Cotidiano, MPF denuncia seis por assassinato e por forjar suicídio de Vladimir Herzog, March 17, 2020.

<sup>355</sup> Uol, Judge rejects charges against six for Herzog's death in the dictatorship cellars, May 4, 2020.

<sup>356</sup> Migalhas, STJ recognizes permanent effects in hiding the body of Rubens Paiva during the dictatorship, but keeps the case locked, October 13, 2020.

<sup>357</sup> ABAP, STJ suspends the payment of precatórios to cables exonerated by dictatorship ordinance, February 4, 2020; Conjur, Damarens annuls the declaration of political amnesty of almost 300 people, June 8, 2020.

<sup>358</sup> Jornal de Brasília, More than a thousand amnesty requests were denied in 2020, January 5, 2021.

<sup>359</sup> Brazil, Resolution No. 4, Approves the Internal Regulations of the Special Commission on Political Deaths and Disappearances, January 14, 2020; ABAP, Commission on political disappearances has new rules and generates controversy, January 16, 2020.

<sup>360</sup> MPF, Faced with apologia a crimes against humanity, PFDC asks for accountability of head of government communication, May 6, 2020; MPF, JF/RN reiterates: it is unconstitutional to commemorate the military coup of 1964, July 10, 2020; ABAP, MPF files suit to change the name of building that honors president of the military regime, August 7, 2020; UOL, Off the agenda, Bolsonaro receives Curió, symbol of killings in the dictatorship, May 4, 2020.

<sup>361</sup> IACHR, Resolution No. 3/2019, Principles on Public Memory Policies in the Americas, November 9, 2019.

encouraged Bolsonaro's supporters to carry out physical attacks against journalists, some of them in the context of protest coverage. The Rapporteurship notes with great concern that there has been an increase in the criminalization of journalists, which in some cases has included the application of the national security law, and the use of judicial actions to censor journalistic reports.

## CANADA

- **General Considerations**

184. In terms of **progress** in 2020, the IACHR welcomes the passage of legislation in the province of Manitoba to allow individuals to select a non-binary identity option for identification documents and birth certificates. In addition, the IACHR welcomes the efforts made by the Government of Canada to address trafficking in persons; in particular, measures with a differentiated approach to the treatment of indigenous persons.

185. In terms of **challenges**, the IACHR recognizes the need to deepen the fight against racism, discrimination and other forms of violence against indigenous peoples in Canada. Also, the Commission expresses concern about the lack of implementation of the 2019 National Inquiry report on Missing and Murdered Indigenous Women and Girls. With respect to the rights of persons in human mobility, prolonged detention of immigrants and asylum seekers remains a challenge, as Canada is one of the few countries in the region with no limit on the length of immigration detention.

186. The State of Canada did not respond to the request for information sent by the IACHR in preparation of this chapter.

- **Specific Topics**

187. In the context of **COVID-19**, the IACHR notes that the Canadian government has taken important steps to address the impact of the pandemic. In Canada, the first case was confirmed on February 27.<sup>362</sup> On March 4, the Executive Branch announced the creation of the Cabinet Committee on the Federal Response to Coronavirus Disease.<sup>363</sup> Consequently, on March 4, schools were closed and on March 16, further preventive measures were taken, including targeted restrictive measures and border closures. On March 16, Canada restricted border access, prohibiting entry to travelers from all countries except the United States. On March 18, travelers from the United States were also banned. On June 8, after several months of border closures, Canada began allowing citizens and residents to enter the country.<sup>364</sup> As stated in the IACHR resolution on the pandemic and human rights, States have a continuing obligation to follow expert public health guidance and ensure that any measures implemented respect the human rights of all affected persons<sup>365</sup>.

188. With regard to **human rights institutions**, the country has a Human Rights Commission<sup>366</sup> responsible for handling complaints related to human rights. In this regard, the Commission's various initiatives in the area of race and ethnicity are noteworthy. On the one hand,

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<sup>362</sup> CTV News, "First case has been confirmed in Quebec," February 27, 2020.

<sup>363</sup> Prime Minister of Canada, "Prime Minister creates committee on Covid-19," March 4, 2020.

<sup>364</sup> Government of Mexico, "Guía del viajero, ficha de países".

<sup>365</sup> IACHR, Resolution 1/2020, Pandemic and Human Rights in the Americas, April 10, 2020.

<sup>366</sup> Canadian Commission on the Rights of Individuals.

note was taken of the conduct of an audit on racial equity and representation in managerial and executive positions<sup>367</sup> in the public administration and the request made to the government to collect data on the pandemic, including data on race, in order to improve health outcomes for vulnerable groups.<sup>368</sup>

189. In relation to the **rights of persons in human mobility**, the Commission notes that the "Safe Country Third Party" agreement, signed by the Governments of Canada and the United States, was declared unconstitutional by the Federal Court of Canada. The Court stated that the most significant harm that persons returned to the United States may suffer is deprivation of liberty. It added that there may also be other harms related to the conditions of detention and the risk of *refoulement*.<sup>369</sup> In addition, public information indicates that Canada continues to deprive migrants, asylum seekers, and others seeking international protection of their liberty, often without access to administrative or judicial remedies to challenge detention. Moreover, Canada has no limit on the length of immigration detention which can create a situation of indefinite detention.<sup>370</sup>

190. In addition, the Commission notes the efforts made by the Canadian government to address **human trafficking** and, in particular, sex trafficking. In August 2020, the Ontario government unveiled two new programs in an effort to crack down on sex trafficking of young people, namely the "Speak Out: Stop Sex Trafficking" and "The Tap" programs. The first is a program designed by and for indigenous peoples, and aims to provide information on sexual exploitation and human trafficking and how to detect it. "The Tap", in turn, is designed to raise awareness about sex trafficking among middle and high school-aged children and adolescents.<sup>371</sup>

191. In relation to the **rights of indigenous peoples**, the IACHR received information indicating that the pandemic and isolation-related measures exacerbated the risks of domestic violence for indigenous women, girls and gender-diverse people. In the first three months of the pandemic, a National Women's Association of Canada (NWAC) survey of 1,087 respondents revealed that 18% of Indigenous women and 25% of two-spirit people reported having been victims of domestic violence<sup>372</sup>.

192. On the other hand, the IACHR takes note of information on the disproportionate number of deaths of indigenous persons at the hands of police officers in Canada. The IACHR received allegations regarding the killing of Chantel Moore of the Tla-o-qui-aht First Nation by a police officer on June 4, 2020 in the city of Edmundston, New Brunswick. According to the information, a police officer responded to a welfare check request from Ms. Moore at her home and fired his weapon five times because she threatened him with a knife. However, family members of the victim and representatives of indigenous peoples have questioned this version of events and have demanded an

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<sup>367</sup> Canadian Commission on the Rights of Persons, "CHRC to audit representation of racialized people in the federal public service," July 16, 2020.

<sup>368</sup> RCI, "Canadian agencies call for collecting race-based pandemic data," June 08, 2020.

<sup>369</sup> Federal Court, Canadian Council for Refugees Canada (Immigration, Refugees, and Citizenship), July 22, 2020 (corrected July 31, 2020), par. 94.

<sup>370</sup> Human Rights Watch, "No Justice, No Truth" for Canada's Immigration Detainees, December 10, 2020.

<sup>371</sup> Global News, "Ontario government announces programs to curb sex trafficking and educate youth," August 31, 2020.

<sup>372</sup> NWAC, Survey finds nearly one in five indigenous women have been victims of violence since pandemic hit our shores: The impact of COVID-19 on Indigenous Peoples of Canada. June 2020. NWAC, Background Information for News Conference of June 3, 2020. June 3, 2020.

independent public inquiry. This incident adds to others indicating a disproportionate number of deaths of indigenous people due to the use of force by police officers. The IACHR takes note of information indicating that, in the last twenty years, 16% of the deaths caused by police officers correspond to indigenous persons despite the fact that they represent only 4.21% of the national population.<sup>373</sup> Other sources of information reveal that of the 66 deaths caused by police officers between 2017 and 2020 where the race and ethnicity of the victims could be identified, 25 were of indigenous people, representing almost 40% of the total.<sup>374</sup>

193. The IACHR has also received information on serious conflicts between indigenous Mi'kmaq fishermen and non-indigenous fishermen in the province of Nova Scotia with serious racist overtones. Based on the Constitution, treaties and Supreme Court of Canada jurisprudence, the Mi'kmaq people are guaranteed their right to subsistence fishing. However, non-indigenous commercial fishermen have objected to the Mi'kmaq people's fishing activities outside of Canada's federally regulated fishing season. In October 2020, non-indigenous fishermen destroyed facilities and traps used by Mi'kmaq fishermen. Members of the Mi'kmaq people denounced the lack of an effective and timely response by state authorities to acts of aggression, harassment, intimidation, racism, and violence perpetrated by non-indigenous fishermen. The IACHR notes that the federal government has called for a peaceful resolution of this situation in observance of the rights derived from the treaties signed with the Indigenous Nations.<sup>375</sup>

194. Regarding the rights of **women and girls**, the IACHR received information on the lack of implementation of the recommendations of the report *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls*. The report's main findings include that the State is complicit in a planned "genocide" based on race, identity, and gender, supported by colonialist policies and State inaction.<sup>376</sup> The report further established that while the "genocide" affects all members of indigenous peoples, it specifically targets women, girls, and members of the LGBTI community.<sup>377</sup>

195. In December 2019, the Canadian State reported that it was developing a National Action Plan to act on the report's recommendations, expected to be released in June 2020. However, on May 26, 2020, the Minister of Indigenous Crown Relations publicly announced that the government had not developed the Plan and had no timeline for doing so.<sup>378</sup> In addition, in April and May 2020, the Native Women's Association of Canada released two related reports focused on follow-up to the final Report: National Roundtable on Missing and Murdered Indigenous Women and Girls: Highlights of Key Findings and Recommendations, and Redress and Remembrance in Canada for Indigenous

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<sup>373</sup> CBC News, 2020 already a particularly deadly year for people killed in police encounters, CBC research show: CBC's Deadly Force database looks at the role of race, mental health in deaths. July 30, 2020.

<sup>374</sup> CTV News, Why are indigenous people in Canada so much more likely to be shot and killed by the police, June 19, 2020.

<sup>375</sup> Al Jazeera, Canada: Indigenous fishers urge gov't action after violent raids, October 15, 2020.

<sup>376</sup> CBC, Inquiry into missing and murdered Indigenous women issues final report with sweeping calls for change, June 3, 2019.

<sup>377</sup> CBC, Inquiry into missing and murdered Indigenous women issues final report with sweeping calls for change, June 3, 2019.

<sup>378</sup> The Native Women's Association of Canada, Canada's Failed UN Security Council Bid: Lead by Example at Home to Lead by Example Abroad, June 18, 2020.

Women, Girls and Gender Diverse People.<sup>379</sup> As of the date of this report, the Plan of Action has not been published and the report's recommendations have not been implemented. In this context, the IACHR urges the Canadian State to protect and guarantee the human rights of indigenous women and girls, and to act with due diligence to prevent, punish, and redress any act of gender-based violence committed against indigenous women and girls, and to take specific measures, with the participation of indigenous women, to implement the respective recommendations.<sup>380</sup>

196. With respect to **lesbian, gay, bisexual, trans, gender-diverse and intersex persons**, as noted above, the Commission welcomes the guarantee of the right to gender identity and expression for persons with non-binary identities in Manitoba, who can choose a non-binary option in their gender on identity documents and birth certificates.<sup>381</sup> The IACHR also noted with satisfaction the presentation and approval on second reading of the bill that, through an amendment to the national Criminal Code, would prohibit procedures that attempt to modify, divert, or suppress a person's gender identity/expression and sexual orientation (also known as "conversion therapies").<sup>382</sup>

197. On the other hand, civil society organizations have reported that some trans and gender-diverse people have experienced disruptions in the delivery of health services in the context of the COVID-19 pandemic, for example, in receiving hormones.<sup>383</sup>

198. With respect to **seniors**, the government has taken several measures to protect this population. In this regard, it provided financial support to long-term residential facilities in Quebec and relaxed some regulatory restrictions in Ontario.<sup>384</sup> In total, the government also pledged C\$9 million to help the country's seniors obtain food, medicines, and other critical items during the pandemic.<sup>385</sup> In addition, the Ministry of Seniors announced in June 2020 changes to the "New Horizons for Seniors Program," a grant program for organizations serving seniors, which allows organizations with approved projects in 2019-2020 to use their funds to provide support for seniors' needs due to COVID-19, regardless of the nature of the project initially approved.<sup>386</sup> Despite the above, cases of COVID-19 in long-term residential facilities for the elderly were more prevalent and had higher mortality rates, as in much of the rest of the world.<sup>387</sup> In late May 2020, a Canadian Army report documented severe neglect in several long-term care homes battling the COVID-19 pandemic in

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<sup>379</sup> The reports are available on NWAC's website, <https://www.nwac.ca/browse/>.

<sup>380</sup> IACHR, Press Release No. 159/19, [IACHR calls on the State of Canada to implement the recommendations issued by the National Inquiry on Missing and Murdered Indigenous Women and Girls to protect and guarantee their human rights](#), May 25, 2019.

<sup>381</sup> CBC News, Manitoba to allow non-binary option on birth certificates in response to human rights ruling, April 27, 2020 and Pink News, Non-binary gender option introduced on Manitoba Métis cards, December 21, 2020.

<sup>382</sup> Parliament of Canada, [Bill C-6](#), December 11, 2020 and NBC News, [Canada reintroduces bill banning LGBTQ Conversion therapy](#), October 2, 2020.

<sup>383</sup> Globalnews, Coronavirus: many transgender, non-binary Canadians report health-care interruptions, December 15, 2020.

<sup>384</sup> National Post, "Emergency COVID-19 measures enacted for Canada's seniors' homes where pandemic hits hardest," March 30, 2020.

<sup>385</sup> CARP, "Federal government pledges \$9 million to support seniors during pandemic," March 30, 2020.

<sup>386</sup> Ministry of Seniors, New Horizons for Seniors Program projects can now be used for COVID-19 support, April 6, 2020.

<sup>387</sup> National Post, "Emergency COVID-19 measures enacted for Canada's seniors' homes where pandemic hits hardest," March 30, 2020.

Ontario, including insect infestations, understaffing, and patients malnourished and **neglected in terms of personal grooming** for long periods of time.<sup>388</sup>

## CHILE

- **General considerations**

199. In terms of **progress**, the IACHR notes the measures adopted to contain the COVID-19 pandemic; it also welcomes legislative initiatives against gender-based violence and to enhance access to justice; it also highlights the progress in jurisprudence against discrimination based on ethnic, racial, and national origin. In the context of the constituent process for the reform of the 1980 Constitution, it notes positively affirmative actions for the participation of population groups such as women, indigenous peoples, and people with disabilities.

200. The IACHR also highlights the *on-site visit* carried out in January 2020. A country report based on that visit is being prepared that will include the main findings and [observations](#) on the human rights situation during the 2019 social outburst. The Commission appreciates the openness of the Government in providing information and the overall cooperation provided by the State.

201. In terms of **challenges**, the IACHR notes with concern the reported cases of excessive use of force by security and/or police agents in protests, as well as the intensification of the intercultural conflict in the Araucanía region. Furthermore, in the context of the constituent reform process, it notes the lack of affirmative actions for the participation of Afro-descendants.

202. On December 16, 2020, the State submitted a response to the request for information sent for the preparation of this chapter.<sup>389</sup>

- **Specific topics**

203. In the context of the **COVID-19 pandemic**, the IACHR highlights the measures taken to contain the spread of the virus. In Chile, the first case was recorded on March 3, 2020, and since then, preventive actions have been taken, such as the declaration of a State of Catastrophe Exception for Public Calamity<sup>390</sup>; the closure of educational establishments; the closure of all land, sea and air borders of the country for the transit of foreign persons; and targeted preventive isolation or isolation by regions. After several months of these measures, the border closures were extended until November 23, 2020, when actions were advanced for a gradual strategy to address the pandemic according to the health situation in specific geographic areas.<sup>391</sup> The Commission also highlights support strategies such as the "COVID-19 voucher" and the "Emergency Family Income (IFE)".<sup>392</sup>

204. Regarding institutional follow-up, the Health Authority and the Ministry of the Interior and Public Security are the agencies responsible for adopting measures to contain the effects

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<sup>388</sup> Politico, Canadian military details horrific conditions in nursing homes battling COVID-19, May 26, 2020.

<sup>389</sup> Government of Chile, Ministry of Foreign Affairs, IACHR file, December 16, 2020

<sup>390</sup> Ministry of the Interior and Public Security, [Supreme Decree No. 104, of 2020](#), March 18, 2020.

<sup>391</sup> Government of Chile, Ministry of Foreign Affairs, December 16, 2020, p.5. IACHR Archive

<sup>392</sup> Ministry of Social Development and Family, [IFE COVID and Bono COVID](#), 2021



of the pandemic. In particular, among the actions reported to the Commission,<sup>393</sup> note is taken of the adoption of the Coronavirus Action Plan which contemplates quarantines, and customs and sanitary cordons in specific areas of the country to control the spread of the virus between regions.<sup>394</sup> The Commission also welcomes the speedy implementation of vaccination in Chile.<sup>395</sup>

205. With regard to **human rights institutions**, the Commission takes note of reports of institutional efforts to implement the National Human Rights Plan 2018-2021<sup>396</sup> and the National Action Plan (PAN) on Human Rights and Business.<sup>397</sup>

206. The Commission notes positively the creation of specialized institutions for the process of comprehensive institutional reform of the Carabineros de Chile. In particular, it highlights the approval of the Manual for the Prevention, Detection, and Control of Misconduct, the revision and updating of the "Protocol for the maintenance of public order on the use of riot guns," and the upgrading of the Internal Affairs Sub-Directorate, which reports to the Comptroller General of the Carabineros.<sup>398</sup>

207. On this matter, the Commission has been informed of the creation of the National Service for the Protection of Children and Adolescents, replacing the National Service for Minors (Sename). The new agency reports to the Ministry of Social Development and Family and the Undersecretariat for Children.<sup>399</sup>

208. On **democratic institutional**ity, the IACHR notes that the national plebiscite of October 25, 2020 formalized the beginning of the constituent process for the reform of the 1980 Constitution. The Commission takes note of the various demands and social demonstrations that took place in the context of the 2019 social outburst, as well as the initiatives of a number of sectors that have promoted the constituent process via a Constitutional Convention.<sup>400</sup> The IACHR has been monitoring the candidacies for the Constitutional Convention, and its upcoming elections.

209. In the area of **citizen security**, the IACHR takes note of various social demonstrations that took place during 2020 in Chile. In this regard, concerning the protests that took place on the first anniversary of the social outbreak, on October 18, 2020, the IACHR expressed concern<sup>401</sup> about the information received on the detention of 580 people, one killed, and several injured.<sup>402</sup> The

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<sup>393</sup> Note of response to request for information. Art. 41 letter on measures taken to contain the pandemic.

<sup>394</sup> Government of Chile, Ministry of Foreign Affairs, IACHR Archive, December 16, 2020, p. 5.

<sup>395</sup> CNN, [How Chile became a leader in vaccination against COVID-19](#), February 19, 2021. *See also*, [France 24, 2.7 million immunized in 15 days: Chile's keys to its vaccination strategy](#), February 19, 2021.

<sup>396</sup> Ministry of Justice and Human Rights, "[First National Human Rights Plan](#)" November 6, 2020.

<sup>397</sup> Ministry of Justice and Human Rights, "[National Action Plan on Human Rights and Business](#)".

<sup>398</sup> IACHR, Letter of Request for Information Chapter IV A of X of XX of 2020, IACHR Archive.

<sup>399</sup> Note of response to the request for information. Letter Art. 41. [Congress approved the bill that creates the national service for the protection of children and adolescents in replacement of Sename](#)". June 05, 2020.

<sup>400</sup> CNN, [El significado que tiene para Chile el plebiscito nacional de 2020](#), October 26, 2020.

<sup>401</sup> IACHR, [Tweet](#), October 19, 2020.

<sup>402</sup> CNN, [Protests in Chile: 580 arrested and one dead](#), October 19, 2020.

Commission appreciated that, according to publicly available information, the demonstrations were for the most part peaceful.<sup>403</sup>

210. On the other hand, the Commission expressed concern<sup>404</sup> about the acts of violence that occurred in Araucanía that resulted in the death of a carabinero on October 30, 2020; as well as the excessive use of force against machi Fidel Tranamil of the Mapuche community Rofue in Renaco Bajo during a police raid. Likewise, the Commission observed the days of protests that took place in Santiago on November 18, 2020, where demonstrators allegedly demanded the release of persons deprived of their liberty due to the social outbreak. The protests reportedly resulted in the arrest of more than 40 people, and 34 violent incidents were recorded, including looting and damage to public spaces.<sup>405</sup>

211. Regarding **access to justice**, the Commission notes positively the promotion of the bill that creates the National Service for Access to Justice and the Ombudsman's Office for Victims. This initiative was presented by the Executive and would create a single institution that integrates all access to justice services (Legal Assistance Corporations) and programs. This project proposes four lines of action and the creation of two new services: the Office for the Defense of Victims of Crime and the National Council for Access to Justice.<sup>406</sup>

212. On the other hand, the IACHR received information on oral criminal trials that were reportedly conducted virtually in Arica between April 1 and May 22, 2020, due to the sanitary emergency. Of the 31 trials carried out, 21 were conducted without opposition from the defense because they were collaborative trials<sup>407</sup>. The Commission also notes that the Supreme Court rejected the appeal for annulment of the ruling issued in an oral trial conducted via videoconference, in which two people were convicted.<sup>408</sup>

213. Regarding women's **rights**, the Commission welcomes the approval and entry into force of [Law No. 21,212](#) of 2020, better known as the "Gabriela Law", aimed at punishing violence against women, through the establishment of specific criminal offenses that expand the concept of femicide to cases in which it occurs outside an affective relationship - gender-based femicide - and intimate femicide that incorporates the relationship with the perpetrator whether or not there was cohabitation.<sup>409</sup>

214. In the context of the pandemic, the Commission notes with concern information from available sources on the 70% increase nationwide in telephone reports of women at risk of domestic violence.<sup>410</sup> In Providencia alone, there has been a 500% increase in legal, psychological, and

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<sup>403</sup> IACHR, [Tweet](#), October 19, 2020

<sup>404</sup> IACHR, [Tweet](#), November 2, 2020.

<sup>405</sup> The San Diego Union Tribune, [Chile: Protests call for Piñera's resignation](#), November 24, 2020. *See also* Cooperativa.cl, [Severe incidents mark protest against Piñera and for prisoner release](#), November 25, 2020.

<sup>406</sup> Diario Constitucional.cl, [Bill that creates the National Service of Access to Justice and the Ombudsman for Victims](#), January 7, 2021.

<sup>407</sup> Civil society document submitted to the IACHR, June 10, 2020. IACHR confidential file

<sup>408</sup> Diario Constitucional, [SC refused to annul oral trial conducted remotely via videoconference](#), June 25, 2020.

<sup>409</sup> Ministry of Justice and Human Rights, [Ley Gabriela, un paso relevante para enfrentar la violencia contra la mujer](#), May 8, 2020.

<sup>410</sup> Telesurtv.net, [Gender violence in Chile increases 70% during quarantine](#), April 6, 2020

social assistance provided as a result of emergency calls during quarantine,<sup>411</sup> while formal reports of domestic violence have reportedly decreased by 18%. The Government reportedly reinforced channels of communication for counseling and maintenance of shelters for victims.<sup>412</sup>

215. With regard to the **rights of the elderly**, the Commission has welcomed<sup>413</sup> the measures adopted by the Chilean State through Law No. 21.228, which "Grants general commutative pardon on account of COVID-19 disease in Chile"<sup>414</sup> with the aim of decongesting prisons for health reasons, thereby protecting the health and lives of persons deprived of their liberty. This law commutes or annuls the sentences of elderly persons deprived of liberty -among other groups in vulnerable situations- and provides for alternatives to incarceration, such as serving their sentences through total home confinement, thereby helping to guarantee the rights to life, integrity, and health of elderly persons deprived of liberty, in the context of the pandemic. Likewise, the IACHR appreciates the fact that the norm precludes benefiting those convicted of extremely serious crimes, such as crimes against humanity, in line with the recommendations of IACHR Resolution 1/2020.

216. With regard to **memory, truth, and justice**, the Commission has taken note of the judgment related to Operation Colombo, which acquitted 61 former DINA agents who had been convicted in the first instance of the kidnapping and execution of 16 people between June 17, 1974 and January 6, 1975<sup>415</sup>; in the judgment, 42 former agents were sentenced to non-custodial sentences due to mitigating circumstances.<sup>416</sup> In addition, the IACHR has received information on another decision adopted by the same Chamber in April 2020, regarding the kidnapping of 16 people and the death of one person at Villa Grimaldi.<sup>417</sup> In that decision, 9 of the persons who had been sentenced in the first instance to between 10 and 20 years imprisonment had their sentences reduced to 541 days or 3 years and 1 day, granting each of the convicted persons the alternative penalty of intensive probation for a period of five years.<sup>418</sup> On the other hand, the IACHR appreciates that, in the context of the conviction of 4 former DINA agents for kidnapping and torture, which included sexual violence against 6 prisoners of the so-called "Sexy Blindfold", the sexual violence used against women was specifically recognized.<sup>419</sup>

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<sup>411</sup> Cooperativa.cl, [Providencia: Domestic violence complaints increased 500% in quarantine](#), April 14, 2020

<sup>412</sup> CNN Chile, "This is also a pandemic": [Cases of gender violence increased in Latin America due to quarantines](#), April 27, 2020.

<sup>413</sup> IACHR, [IACHR Concerned About Chilean Bill to Authorize House Arrest for Some Individuals Convicted of Serious Human Rights Violations Committed During the Dictatorship](#), October 19, 2020.

<sup>414</sup> [Law No. 21.228 that "Grants general commutative pardon due to Covid-19 disease in Chile"](#), April 16, 2020.

<sup>415</sup> Diario U Chile, [Ex presas y presos políticos de la Dictadura envían carta a la Corte Suprema por absolución de agentes de la DINA](#), December 9, 2020; Diario U Chile, [Lucía Sepúlveda y absolución de involucrados en 'Operación Colombo': 'Confirma a los agentes del Estado que pueden seguir violando los DD.HH.'](#), December 1, 2020.

<sup>416</sup> El Mostrador, [Controversial sentence in Operation Colombo case: 61 former DINA agents are acquitted and none of the 42 convicted received prison sentences](#), November 30, 2020.

<sup>417</sup> Villa Grimaldi, [An aberrant ruling](#), April 11, 2020.

<sup>418</sup> CNN Chile, [Sentences revoked for 17 people convicted of human rights violations: 8 of them were acquitted](#), April 12, 2020.

<sup>419</sup> In Estrado, [Violaciones a los DD.HH. en "La Venda Sexy": juez Carroza aplica perspectiva de género y condena a Raúl Iturriaga a 15 años de cárcel por aplicación de tormentos con violencia sexual a seis mujeres](#), November 5, 2020.

217. With regard to the cases of human rights violations committed during the dictatorial period,<sup>420</sup> the IACHR has learned that 476 final sentences were handed down between 1995 and June 2020. Civil society organizations, for their part, criticized the pace of the proceedings, indicating that a total of 1,471 cases are still open.<sup>421</sup>

218. In addition, the IACHR expressed concern about the repeated attacks on memory sites located in different regions of Chile and called on the State to investigate such acts, as well as to adopt measures to ensure the preservation of those sites.<sup>422</sup> The Commission has learned of subsequent attacks perpetrated in Valdivia, Santiago, Temuco and Valparaíso,<sup>423</sup> as well as reports of activities that could jeopardize both the integrity of the memory sites and the integrity of judicial evidence or mortal remains of victims allegedly located on their grounds.<sup>424</sup> In this regard, the State indicated that it had drafted a Protocol of Action for Public Institutions in Situations of Damage and Vandalism at Sites of Memory and Memorials with the participation of civil society and designed a Guide to disseminate the main complaint mechanisms in the case of damage to a Memory Site. It also reported that complaints related to sites recognized as National Monuments are at the investigation<sup>425</sup> stage. The Commission has also expressed its concern about a legislative initiative that could result in the granting of house arrest to persons convicted of serious human rights violations, which would render the sanction applied in these cases illusory.<sup>426</sup>

219. In relation to the **rights of indigenous peoples**, the IACHR took note of the historical demands of indigenous peoples in Chile, including constitutional recognition and implementation of the economic model based on the exploitation of natural resources in which they have denounced disregard of their rights over their collective property and natural resources.<sup>427</sup> At the same time, the Commission welcomed the approval of the Reserved Seats Bill, which would modify the Political Constitution to reserve seats for representatives of indigenous peoples in the Constitutional Convention in charge of drafting a new Constitution.<sup>428</sup> In this sense, it emphasized that the inclusion

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<sup>420</sup> Universidad Diego Portales, [Annual Report on Human Rights in Chile 2020](#), December 3, 2020, pp. 46.

<sup>421</sup> Universidad Diego Portales, [Annual Report on Human Rights in Chile 2020](#), December 3, 2020, p. 561; London 38, [Open Letter to the Plenary of the Supreme Court](#), January 8, 2021.

<sup>422</sup> IACHR, [IACHR Expresses Concern over Repeated Attacks on Sites of Memory in Chile](#), February 6, 2020

<sup>423</sup> El Mostrador, [Denuncian violento asalto a sitio de memoria Ex Clínica Santa Lucía, sede de la Comisión Chilena de DDHH](#), March 14, 2020; Biobiochile.cl, [Valdivia:vandalizanmemorial de detenidos desaparecidos en dictadura al interior de cementerio](#), March 12, 2020; Londres 38, [Adhesión a declaración pública de Londres 38, por ataque a espacio de memoria](#), July 28, 2020; Frontline Defenders, [Oficinas de Londres 38 espacio de memoriasvandalizadaspor tercera vez en 2020](#), December 5, 2020; Biobiochile.cl, [Dañan memorial de detenidos desaparecidos en Temuco: destruyen placas con nombres de las víctimas](#), February 19, 2020; La Nación, [Vandalizanmemorial por ejecutados políticos y detenidos desaparecidos en Valparaíso](#), November 6, 2020.

<sup>424</sup> DW, [Ex Colonia Dignidad: alerta por intervención en sitio histórico y anuncio de nuevos peritajes](#), December 5, 2020; Conectados con la memoria, [Fundación por la Memoria de San Antonio rechaza desecanación del sitio de memoria de Rocas de Santo Domingo](#), December 11, 2020.

<sup>425</sup> Government of Chile, Ministry of Foreign Affairs, REF: 188-20/CIDH/SE/Art.41/3-2020/7. Investigation of Attacks on Sites of Memory, IACHR Archive, May 8, 2020, p. 8,

<sup>426</sup> IACHR, [IACHR Concerned About Chilean Bill to Authorize House Arrest for Some Individuals Convicted of Serious Human Rights Violations Committed During the Dictatorship](#), April 22, 2020.

<sup>427</sup> IACHR, [Press Release](#), IACHR completes on-site visit to Chile and presents its preliminary observations and recommendations, January 31, 2020.

<sup>428</sup> IACHR, [Constitutional Process in Chile: IACHR and OHCHR Welcome Approval of Measures That Promote the Participation of Indigenous Peoples and People with Disabilities, and Ask to Ensure the Participation of Tribal People of African Descent](#), December 30 2020.

of reserved seats for indigenous peoples in the Constitutional Convention represents an important step towards the recognition of the ethnic-racial rights of the country's indigenous peoples.

220. The IACHR has also received information on the situation of indigenous persons deprived of liberty, and in particular, on their specific needs and the differentiated impacts of penal policies on their distinct cultural identities. In particular, the Commission took cognizance of the extensive hunger strikes carried out by Machi Celestino Córdova in 2018 and 2020 at the Temuco penitentiary and expressed its concern for the health of the Mapuche spiritual leader and other Mapuche prisoners who were on hunger strike.<sup>429</sup> After 107 days on strike, the Machi signed an agreement with state authorities containing commitments related to access to intercultural health, traditional practices, and other measures related to prison programs. The Commission welcomed this progress.<sup>430</sup>

221. The IACHR also issued a statement on incidents of violence, discriminatory speech, and attacks on Mapuche spiritual symbols in the Araucanía region in August 2020. The Commission learned of confrontations between law enforcement officials and Mapuche community members that included arson, occupations of public places, and evictions.<sup>431</sup> The IACHR also spoke out against the arrest of Mapuche Machi Miriam Mariñan during a demonstration in support of a hunger strike that was violently broken up<sup>432</sup>; it also condemned the death of Mapuche indigenous person Alejandro Treuquil in We Newén, Collipulli commune, in La Araucanía as a result of gunshots fired by an armed civilian group.<sup>433</sup>

222. On **people of African descent and against racial discrimination**, the Commission notes positively the unanimous ruling of the Supreme Court, on May 12, 2020, which upheld the judgment convicting the municipality of Lo Padro for arbitrary discrimination in the case of the Haitian citizen Joane Florvil, in August 2017.<sup>434</sup>

223. However, in the context of the constituent process for reform of the Constitution, the IACHR expressed deep concern<sup>435</sup> over the failure of the Chamber of Deputies to approve a reserved seat for the Chilean Afro-descendent tribal people in the Constitutional Convention. The Commission urged the State of Chile to guarantee the right to political participation of the Afro-

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<sup>429</sup> IACHR, [IACHR Expresses Concern over the State of Health of Mapuche Prisoners on Hunger Strike in Chile, Calls for Greater, More Timely Dialogue to Address Their Demands, and Condemns All Forms of Violence in Araucanía](#), August 12, 2020.

<sup>430</sup> IACHR, [Tweet](#), August 19, 2020.

<sup>431</sup> IACHR, IACHR expresses its concern over the state of health of Mapuche prisoners on hunger strike in Chile, calls for intensification of timely dialogue to address their demands and condemns all forms of violence in Araucanía, [Press Release](#), August 12, 2020.

<sup>432</sup> IACHR, [Tweet](#), August 8, 2020.

<sup>433</sup> IACHR, [Tweet](#), June 6, 2020.

<sup>434</sup> Diario Constitucional.cl, [SC confirms ruling that condemned municipality for arbitrary discrimination of Haitian citizen](#), May 13, 2020.

<sup>435</sup> IACHR, [Constitutional Process in Chile: IACHR and OHCHR Welcome Approval of Measures That Promote the Participation of Indigenous Peoples and People with Disabilities, and Ask to Ensure the Participation of Tribal People of African Descent](#), December 30 2020.

descendant tribal people in the process of forming the Constitutional Convention, through affirmative action.<sup>436</sup>

224. Regarding the rights of **lesbian, gay, bisexual, trans, gender diverse and intersex (LGBTI) persons**, the IACHR welcomes the decision of the Second Family Court of Santiago, which recognized the filiation of two women with respect to their 2-year-old son, as well as the respective inscription on the birth certificate issued by the Civil Registry.<sup>437</sup> In the same vein, the Commission takes note of legislative initiatives on equal marriage, the prohibition of incitement to violence, hatred, and negative attitudes and the prohibition of so-called conversion therapies.<sup>438</sup>

225. Furthermore, the Commission welcomes Supreme Court rulings that recognize the rights of trans and gender-diverse persons, such as the conclusion that "transsexuality" is not a disease.<sup>439</sup> The IACHR also welcomes the fact that more than two thousand trans, non-binary, and gender-diverse persons have adjusted their name and registered sex to conform to their gender identity since the approval of the Gender Identity Law.<sup>440</sup> However, the Commission has received reports of trans and gender-diverse persons who have not been able to access a change of name for certain banking transactions.<sup>441</sup>

226. The Commission has received with concern reports related to acts of discrimination and violence carried out against LGBTI persons or persons perceived as such, such as the death threats

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<sup>436</sup> IACHR, [Press Release No. 313/20](#), Constituent Process in Chile: IACHR and OHCHR Welcome Approval of Measures Promoting the Participation of Indigenous Peoples and Persons with Disabilities, and Call to Ensure Participation of Afro-descendant Tribal People, December 30, 2020.

<sup>437</sup> IACHR, [The IACHR welcomes the resolution of the Second Family Court of Santiago](#), June 9, 2020; La Tercera, [Attilio will have two mothers: Family Court recognizes the rights of two women over their son and orders the Civil Registry to register him](#), June 8, 2020; La Tercera, [Civil Registry complies with court ruling: DiGiammarino and De Ramón are officially Attilio's mothers after historic ruling](#), July 10, 2020.

<sup>438</sup> Movilh Chile, [Comisión de DDHH de la Cámara despacha proyecto de ley que sanciona la incitación a la violencia, al odio y el negacionismo](#), August 20, 2020; CNN Chile, [Iguales y Movilh destacan que comisión del Senado aprobó indicación que prohíbe "terapias de reconversión"](#), September 21, 2020; El Periodista Online, [Comisión de Constitución aprueba mayoría de artículos de Ley de Matrimonio Igualitario](#), October 16, 2020.

<sup>439</sup> Movilh Chile, [Historic: Movilh defeats Isapre Colmena in the Supreme Court by ruling that transsexuality is not a disease](#), March 11, 2020; Movilh Chile, [Supreme Court orders San Esteban municipality to pay \\$20 million for school transphobia](#), August 5, 2020; Diario Constitucional, [SC orders Isapre Colmena to finance surgery for transwoman's body change](#), November 11, 2020.

<sup>440</sup> El Mostrador, [A un año de la Ley de Identidad de Género, más de 2.200 personas trans han cambiado su nombre y sexo registral](#), 21 December 2020; 24horas, [Personas no binarie: No se sienten totalmente hombre ni mujer](#), December, 26 2020.

<sup>441</sup> Meganoticias, [Transwoman files appeal against bank for refusing to change name on her card](#), December 28, 2020.

made against actress Daniela Vega,<sup>442</sup> kidnappings and aggressions against gay men and trans persons,<sup>443</sup> as well as the murders of lesbians, gay men and human rights defenders.<sup>444</sup>

227. Regarding **persons with disabilities**, the Commission took note of the information published by the National Institute of Human Rights on human rights violations in the context of the protests that occurred between October 18, 2019 and March 18, 2020, which highlights that 163 people present ocular trauma, reportedly linked to the actions of the public forces. Of those, 110 present injuries caused by ocular trauma, 21 have suffered the bursting of the eyeball and 32 present vision loss due to irreversible ocular trauma in one or both eyes.<sup>445</sup> Regarding this situation, the State reported the establishment of an Integral Eye Recovery Program, as well as the Medical and Social Aid and Assistance Plan for the seriously injured.<sup>446</sup>

228. With regard to **persons in human mobility**, the State indicated that in the context of the pandemic, it has implemented actions to guarantee access to health care for migrants,<sup>447</sup> such as extending the validity of the identity card for foreigners for one year, as well as not filing applications for abandonment of the procedure, for failure to attend the eligibility interview due to the absence of administrative procedures.<sup>448</sup>

229. In addition, the Commission observed the measures adopted by the State to provide humanitarian aid through the delivery of food, the transfer of hygiene supplies, and cooperation in the transfer of medical care,<sup>449</sup> in addition to the provision of humanitarian flights to repatriate persons to their countries of origin.<sup>450</sup> In this context, the Commission learned of the ruling of the Supreme Court of Justice that upheld the appeal for relief filed against the requirement to submit a declaration of commitment of non-return to the country for nine years for those persons who were taking part in the humanitarian return plan.<sup>451</sup> The Commission welcomes the decision of the Supreme Court, which considered that this requirement does not comply with national and international

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<sup>442</sup> ADN Radio, "[Esto ha superado todo límite": Daniela Vega se querellará contra responsable de videojuego que incita a matarla](#)", October 28, 2020; CNN Chile, "[Paula Escobar y videojuego contra Daniela Vega: "Hay que poner un límite en esta incitación a la violencia y al odio"](#)", November 1, 2020.

<sup>443</sup> Movilh Chile, "[Joven sufre violento ataque homofóbico con fierros, piedras y patadas en Talagante](#)", July 20, 2020; Movilh Chile, "[Neonazis secuestró y torturan a joven en razón de su orientación sexual](#)", August 19, 2020; Diario El Observador, "[La Calera: Banda de matones secuestró, agredió y amenazó con asesinar a joven sólo por ser gay](#)", October 16, 2020; Movilh Chile, "[Atacan a joven trans hasta dejarlo inconsciente en San Bernardo](#)", November 13, 2020; Movilh Chile, "[Nueva ola de ataques homo/transfóbicos: ahora agreden a dos mujeres trans y dos hombres gay en Concepción, Illapel y El Monte](#)", December 3, 2020.

<sup>444</sup> OTD Chile, "[Declaración pública por lesbicidio de Leslie Velásquez](#)", August 12, 2020; Agencia Presentes, "[Doble homicidio de activistas LGBT en Chile: fiscalía investiga hipótesis del crimen de odio](#)", September 24, 2020; Agencia Presentes, "[Torturaron y asesinaron a un joven gay : denuncian ola de crímenes de odio en Chile](#)", October 27, 2020.

<sup>445</sup> National Institute of Human Rights. "[INDH delivers Balance one year after the social crisis](#)", October 16, 2020.

<sup>446</sup> Inputs from the State of Chile for Chapter IV of the 2020 IACHR Annual Report, December 16, 2020, p. 18.

<sup>447</sup> Ministry of Foreign Affairs, Chile, Reply Communication No. 397/20, December 16, 2020, p. 12.

<sup>448</sup> Ministry of Foreign Affairs, Chile, Reply Communication No. 397/20, December 16, 2020, p. 13.

<sup>449</sup> Info defensa, "[Las FFAA chilenas y el retorno de los bolivianos](#)", July 15, 2020.

<sup>450</sup> Ministry of Foreign Affairs, Chile, "[Third flight of joint repatriation operation takes Colombians to their country](#)", July 23, 2020.

<sup>451</sup> Anadolu Agency, "[Chile: condition of no return for nine years for Colombian migrants who want to leave the country declared illegal](#)", June 12, 2020.



regulations on the matter and that, being a humanitarian measure, it would not require any commitment or counterpart for access to it.<sup>452</sup>

230. However, the IACHR notes with concern the conditions of vulnerability to which Haitian migrants in Chile continue to be exposed, particularly groups such as women, children and adolescents, who face obstacles to access education, health, and work under dignified conditions.<sup>453</sup>

231. With regard to **trafficking in persons**, the Commission welcomes the proposal of the Chilean Senate to amend the Penal Code to punish the crime of trafficking in persons for the purpose of illegal adoption and to incorporate the non-applicability of statutes of limitations.<sup>454</sup>

232. With regard to **persons deprived of liberty**, the IACHR welcomed the enactment of the General Commutative Pardon Law, which allows certain persons deprived of liberty to apply to serve their sentence under house<sup>455</sup> arrest. In this regard, the State informed the IACHR that the approval of the pardon in question would be part of its plan of action to preserve the health and physical integrity of persons deprived of liberty in the face of the COVID-19 pandemic.<sup>456</sup> The IACHR recalls that in accordance with its recent Resolution 1/2020 "Pandemic and Human Rights in the Americas", in the case of persons convicted of serious human rights violations, evaluations of prison benefits and alternative measures to imprisonment must be subject to a more demanding analysis and requirements, in accordance with the principle of proportionality and applicable inter-American standards that take into account the legal right affected, the seriousness of the facts of the case, and the obligation of States to punish those responsible for such violations.

233. Specifically in the context of COVID-19, the State informed the IACHR about the implementation of general preventive measures for the entire prison population, such as: i) vaccination programs against influenza, ii) information and training sessions to prevent the spread of Covid-19, and ii) programs to strengthen hygiene and sanitation, including the provision of masks, soap dispensers, alcohol gel and other sanitary items.<sup>457</sup> Despite the above, according to civil society organizations, several prisons are characterized by: inadequate access to drinking water, unhygienic spaces, and insufficient sanitary supplies. These conditions pose a greater risk of spreading the virus.<sup>458</sup>

234. With regard to the rights of **children and adolescents**, the IACHR takes note of the information provided by the State on the registered cases of COVID-19 among children and adolescents and on the initiatives adopted to protect their rights during the health emergency. In particular, the IACHR welcomes the maintenance of the School Meals Program during the social

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<sup>452</sup> Diario Constitucional, Chile, SC confirms ruling that declared it illegal to require a commitment not to return to Chile by those who take advantage of the humanitarian plan to return to their country of origin, July 14, 2020.

<sup>453</sup> La Tercera, Niños y adolescentes afrodescendientes migrantes: los más discriminados en Chile, November 4, 2020.

<sup>454</sup> Senate of Chile, Propose to criminalize the crime of trafficking in persons for the purpose of adoption and make it imprescriptible, August 1, 2020.

<sup>455</sup> IACHR, IACHR expresses concern over legislative initiative in Chile that would authorize house arrest for certain persons convicted of serious human rights violations committed during the civil-military dictatorship. Washington, D.C., April 22, 2020.

<sup>456</sup> Ministry of Foreign Affairs, Government of Chile, Informe de Derechos Humanos 2020 para Informe Anual CIDH. December 16, 2020.

<sup>457</sup> Ministry of Foreign Affairs, Government of Chile, Informe de Derechos Humanos 2020 para Informe Anual CIDH. December 16, 2020.

<sup>458</sup> Red de Cabildos Penitenciarios, Call to Chilean authorities. April 2, 2020.

isolation measures, the delivery of 125,000 computers with Internet access to enable online education, and the publication of the “Chile Crece Contigo” website with extensive information on COVID-19 for families with children and adolescents.<sup>459</sup>

235. In addition, the IACHR expressed its grave concern about the case in which two adolescents were wounded by gunshots in a SENAME residence in Talcahuano.<sup>460</sup> According to information published by the media, two adolescents, aged 17 and 14, were wounded during a Carabineros procedure at the Carlos Macera Home in Talcahuano<sup>461</sup>. In this regard, the Commission takes note of the investigation of the facts initiated by the Investigative Police of Concepción and the arrest of the person accused of shooting the adolescents.<sup>462</sup>

236. The IACHR also monitored the processing of legislative initiatives that seek to reform the institutional framework for the promotion and protection of the rights of children and adolescents in the country. In this regard, the IACHR notes that in October, the creation of the Specialized Protection Service for Children and Adolescents, which will assume part of the functions of the current National Service for Minors (SENAME), was finally approved.<sup>463</sup> The Commission notes that the law that created this service was enacted in December 2020 and published in January 2021, but, as of the date of this report, had not yet entered into force.

237. Social demonstrations, in the midst of restrictions caused by the COVID-19 pandemic, marked part of the year in Chile. The Office of the Special Rapporteur recorded the excessive use of force in the context of these demonstrations that left people injured and detained by both security forces and violent groups. Among the victims were (local and foreign correspondent) journalists and cameramen.

## COLOMBIA

### ● General considerations

238. With regard to **progress**, the IACHR welcomes various measures adopted by the State in the area of human rights. In particular, it highlights progress in the implementation of the Peace Agreement related to the institutional framework for the Comprehensive System of Truth, Justice, Reparation and Non-Repetition, such as the accreditation of individual and collective victims before the Special Jurisdiction for Peace and the development of National and Regional Plans to Search for Persons Disappeared in the Context of the Armed Conflict.

239. As for **challenges**, the IACHR highlights the violence faced by human rights defenders, social leaders, representatives of indigenous peoples, peasant farmers, Afro-descendants, women and girls, children and adolescents. The Commission also notes with concern the increase in

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<sup>459</sup> Ministry of Foreign Affairs of Chile, Information from the State for the preparation of the 2020 Annual Report of the IACHR, IACHR Archive, December 16, 2020, pp. 13-14. Available at: <http://www.crececontigo.gob.cl/covid19/>

<sup>460</sup> IACHR, [Tweet](#), November 19, 2020

<sup>461</sup> Cooperativa, [INDH sobre baleo a niños: No hubo otros medios disuasivos](#), 19 November 2020. Bio Bio Chile, [Dos adolescentes heridos a bala deja procedimiento de carabineros al interior de hogar del Sename](#), November 18, 2020.

<sup>462</sup> Cooperativa, [Delgado after visiting shot children: There are things that should not happen; the State must protect them](#), November 19, 2020.

<sup>463</sup> SENAME, [Senate approved veto creating the new Child and Adolescent Protection Service](#), October 29, 2020.

collective homicides or massacres registered in the country and the murder, attempted murder, and disappearances of former combatants who signed the Peace Agreement. Similarly, the IACHR voiced its concern regarding illegal spying on journalists, justice operators, human rights defenders, and political leaders allegedly carried out by members of the Army; cases of kidnapping and sexual violence against indigenous girls and adolescents by members of the armed forces; and the excessive use of police force in the context of public demonstrations. Another human rights challenge in the country is the high number of forced displacements registered during the year, especially of various ethnic communities.<sup>464</sup> Finally, the IACHR considers it worrisome, for the integral reparation of the victims of the armed conflict and the right to truth of Colombian society as a whole, that the Commission for the Clarification of Truth, Coexistence and Non-Repetition has difficulty accessing documentation requested from state institutions.

240. On September 29, 2020, the State submitted a response to the request for information sent for the preparation of this chapter.

- **Specific topics**

241. Regarding the COVID-19 pandemic, the IACHR highlights the measures adopted to contain the spread of the virus. In Colombia, the first case was registered on March 6 and preventive actions were taken, such as the declaration of a sanitary emergency and a state of national emergency, the closure of educational establishments, the total closure of borders, and mandatory preventive isolation. After several months of these measures, actions were taken for the gradual reactivation of the country's economic and social life. With respect to institutional follow-up, the High Counselor's Office for Human Rights is the body in charge of monitoring the measures adopted.

242. In terms of **human rights institutions**, the Commission has taken note of the appointment of a new head of the Ombudsperson's Office, an autonomous and independent body for the promotion and defense of human rights.<sup>465</sup> In particular, the IACHR highlights as a good practice in this area, the sustained implementation by the network of National Human Rights Institutions (INDH) of an Early Warning System to monitor and warn about risks to the population associated with the internal armed conflict and to promote humanitarian prevention actions aimed at protecting and guaranteeing human rights.<sup>466</sup>

243. In terms of public policies, one notable development was the beginning of the process of formulating a Public Policy for Integral Protection and Guarantees for Social and Community Leaders, Journalists and Human Rights Defenders. According to the information provided by the State, this policy adopts a differential, equity and ethnicity-oriented and territorial approach, and will incorporate guidelines for the protection of journalists, among other segments of the population, aimed at safeguarding the right to freedom of expression and access to information.

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<sup>464</sup> In 2020, 32,217 people were forcibly displaced, half of them belonging to ethnic communities, specifically, 9,150 Afro-descendants and 7,049 members of indigenous peoples. CODHES, Desplazamiento Forzado en Colombia ¿Qué pasó en 2020, February 21, 2021.

<sup>465</sup> El Espectador, Carlos Camargo will be the new Ombudsman. He had the majority support of Congress, August 14, 2020.

<sup>466</sup> Ombudsman's Office of Colombia, Early Warning System SAT <https://www.defensoria.gov.co/es/public/atencionciudadanoa/1469/Sistema-de-alertas-tempranas---SAT.htm>

244. For its part, the State announced the launching of the second version of the "National Action Plan on Business and Human Rights 2019-2022" prioritizing economic recovery following the crisis caused by the pandemic.<sup>467</sup>

245. With regard to **democratic institutionalism**, the State reported on activities related to the revision of dates for holding elections in 4 departments, the promotion, dissemination and electoral training of the Youth Councils, and the issuance of Resolution 958 of 2020 on biosecurity measures for the management and control of COVID-19 risk in electoral processes.<sup>468</sup>

246. On the other hand, the Commission took note of expressions of concern by civil society regarding the concentration of powers in the Executive Branch and its possible impact on the system of checks and balances necessary for the functioning of a full democracy and the links between members of the Executive Branch and the persons elected to occupy investigative and oversight bodies. The Commission also took note of the fact that the Executive Branch has been given the power to issue 164 decrees, 11 of them directed at the health sector, in the framework of the state of emergency decreed in response to the COVID-19 pandemic.<sup>469</sup>

247. With regard to **access to justice**, the State reported on the progress made in Transitional Justice and the approval by Congress of the 10-year extension of Law 1.448, known as the Victims Law.<sup>470</sup> Likewise, the State highlighted the measures that guarantee the provision of services by the Family Police Stations, the training of officials on the rights of persons with disabilities, and the measures taken in relation to persons deprived of liberty.<sup>471</sup>

248. With respect to **citizen security**, the State reported on the three fronts it has defined as fundamental: substitution of illicit crops; reincorporation of former combatants; and recruitment of children and adolescents. In relation to the security of leaders who support the National Comprehensive Program for the Substitution of Illicit Crops (PNIS), the State highlighted the various security and inter-agency coordination initiatives, as well as the monthly monitoring, follow-up and analysis of all the early warnings issued by the Ombudsperson's Office and the documents sent by the Intersectoral Commission for Rapid Response to Early Warnings (CIPRAT).<sup>472</sup> In relation to the security of former combatants, the State reported on security and protection measures in the Territorial Spaces for Training and Reincorporation (AETCR). With regard to the 9,538 ex-combatants in 579 municipalities that are not in the AETCRs, the State highlighted the actions implemented by the National Protection Unit (UNP) both at the collective level, with 12 protection schemes in the ETCR, and via 226<sup>473</sup> individual protection schemes. The State highlighted the fact that the Attorney

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<sup>467</sup> The Republic, [New national business and human rights action plan](#), December 11, 2020.

<sup>468</sup> Government of Colombia, Aportes de Colombia para la elaboración del Informe Anual de la CIDH -Capítulo IV, Sección A "Panorama anual sobre la situación de los Derechos Humanos por país" correspondiente a 2020, pp. 2-5.

<sup>469</sup> IACHR. [Situation of Human Rights in Colombia](#), 178th session, December 9, 2020.

<sup>470</sup> Government of Colombia, Aportes de Colombia para la elaboración del Informe Anual de la CIDH -Capítulo IV, Sección A "Panorama anual sobre la situación de los Derechos Humanos por país" correspondiente a 2020, pp. 20-21.

<sup>471</sup> Government of Colombia, Aportes de Colombia para la elaboración del Informe Anual de la CIDH -Capítulo IV, Sección A "Panorama anual sobre la situación de los Derechos Humanos por país" correspondiente a 2020, pp. 23-25.

<sup>472</sup> Government of Colombia, Aportes de Colombia para la elaboración del Informe Anual de la CIDH -Capítulo IV, Sección A "Panorama anual sobre la situación de los Derechos Humanos por país" correspondiente a 2020, pp. 31-33.

<sup>473</sup> Government of Colombia, Aportes de Colombia para la elaboración del Informe Anual de la CIDH -Capítulo IV, Sección A "Panorama anual sobre la situación de los Derechos Humanos por país" correspondiente a 2020, p. 34.

General's Office, through the Special Investigation Unit responsible for the investigation of the crimes of homicides, attempted homicides and disappearances of former combatants, has carried out 256 investigations, obtained 38 convictions, identified more than 220 people as suspects, arrested 103 of them, and has issued a further 53 arrest warrants.<sup>474</sup> It also reported on prevention policies and policies against the stigmatization of former combatants, as well as measures to support the security of FARC Party candidates. Regarding the recruitment of children and adolescents, the State reported on the progress made by the Special Jurisdiction for Peace (JEP) in relation to cases involving the recruitment of 8,839 victims by the FARC and on inter-agency actions to prevent the recruitment of children and adolescents.<sup>475</sup>

249. Regarding the safety of leaders who support the PNIS, the IACHR took note of information from the National Congress of the Republic and civil society organizations indicating that in those municipalities where this illicit crop substitution program is being implemented, the homicide rate is 57.9 per 100,000 inhabitants, which is 259% higher than the national average.<sup>476</sup>

250. On the other hand, the United Nations Verification Mission in Colombia has verified the assassination of 248 former combatants since the signing of the Peace Agreement (73 in 2020), in addition to 55 attempted homicides and the disappearance of 20 former combatants.<sup>477</sup> The Verification Mission points out that the threats received by the signatories of the Agreement are driving them to abandon the AETCR and the ETCR,<sup>478</sup> as was the case in the "reincorporation spaces" of La Elvira in Cauca, Mesetas in Meta, Ituango in Antioquia, Puerto Asis in Putumayo<sup>479</sup> and in the ETCR of Santa Lucia where former combatants collectively abandoned the area.<sup>480</sup>

251. The IACHR also took note of the increase in massacres in Colombia during the year 2020. The Office of the United Nations High Commissioner for Human Rights in Colombia documented, as of December 2020, 66 massacres in the country in which 255 people were killed; and other cases are still being verified.<sup>481</sup>

252. The Commission also expressed its concern over allegations of illegal spying for the purpose of preparing intelligence reports on journalists, justice operators, human rights defenders, and political leaders, allegedly carried out by at least four battalions and intelligence and counterintelligence brigades of the Armed Forces in Colombia. For this purpose, information was allegedly gathered through the monitoring of these persons and through various computer tools for collecting data on private communications, telephone calls, emails, places of residence and work, data

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<sup>474</sup> Government of Colombia, Aportes de Colombia para la elaboración del Informe Anual de la CIDH -Capítulo IV, Sección A "Panorama anual sobre la situación de los Derechos Humanos por país" correspondiente a 2020, p. 36.

<sup>475</sup> Government of Colombia, Aportes de Colombia para la elaboración del Informe Anual de la CIDH -Capítulo IV, Sección A "Panorama anual sobre la situación de los Derechos Humanos por país" correspondiente a 2020, p. 44.

<sup>476</sup> Congreso de la República, *¿En qué va la paz a 2 años del Gobierno Duque?*, August 4, 2020, p. 4.

<sup>477</sup> United Nations Verification Mission in Colombia, *Report of the Secretary-General, S/2020/1301*, December 29, 2020, p.3.

<sup>478</sup> United Nations Verification Mission in Colombia, *Report of the Secretary-General, S/2020/1301*, December 29, 2020, p. 3.

<sup>479</sup> El Espectador, *Los espacios de reincorporación de las Farc con más amenazas*, July 9, 2020.

<sup>480</sup> Agencia EFE, *Desmovilizados de las FARC abandon reincorporation zone due to violence*, July 16, 2020.

<sup>481</sup> OHCHR, *Bachelet urges Colombia to increase protection of population due to increased violence in rural areas*, December 15, 2020.

on their families and contact persons, intrusions into their privacy and even direct interceptions of the communications of the aforementioned persons.<sup>482</sup>

253. The IACHR also received information on cases of kidnapping and gang rape of indigenous girls and adolescents by members of the armed forces. According to public information, an adolescent girl from the Nukak Makú indigenous people was allegedly abducted in a military battalion camp and repeatedly raped by members of the army. The Commission received information on the alleged existence of five other cases of sexual violence against Nukak indigenous girls in this same reservation at the hands of members of the army and the kidnapping and subsequent gang rape of an indigenous girl from the Embera Chamí people by eight members of the military. The Colombian Army has itself announced that, since 2016, at least 118 military personnel have been identified as being involved in cases of alleged sexual abuse.<sup>483</sup>

254. The IACHR also expressed its concern about the excessive use of police force, including the case of Javier Ordoñez, who died in police custody after being beaten by members of the Metropolitan Police of Bogotá, and the 13 people who died during the demonstrations that followed.<sup>484</sup> In the investigations into the deaths of people during that protest, the Attorney General's Office charged 3 members of the police for the death of 4 demonstrators whose bodies had gunshot wounds.<sup>485</sup>

255. In relation to the rights of **indigenous peoples**, information received from civil society reports the murder of 47 indigenous leaders in 2020.<sup>486</sup> Likewise, the IACHR learned of attempts against the life and integrity of indigenous leaders<sup>487</sup> and of accusations against indigenous representatives of being infiltrated by FARC-EP leaders during the Indigenous Minga (communal gathering) in October 2020.<sup>488</sup> The presence of illegal armed groups and illegal crops in indigenous territories continues to generate forced displacement, as in the case of the forced displacement of indigenous communities in Bahía Solano, Chocó following the murder of an indigenous leader in December 2020.<sup>489</sup>

256. With respect to **human rights defenders**, the State reported on progress with formulating the National Policy on respect and guarantees for the work of human rights defenders. In this regard, the State mentioned the holding of workshops with civil society and territorial authorities

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<sup>482</sup> IACHR, Press Release, The IACHR and its Office of the Special Rapporteur for Freedom of Expression urge the State of Colombia to establish a diligent, timely and independent investigation into allegations of illegal spying on journalists, justice operators, human rights defenders and political leaders, No. 118/20, May 21, 2020.

<sup>483</sup> IACHR, Press Release. IACHR expresses its strong condemnation of the rape of indigenous girls and adolescents and calls on Colombia to investigate the facts with due diligence, No. 166/20, July 17, 2020.

<sup>484</sup> IACHR, Press Release. IACHR Condemns the Excessive Use of Police Force and Expresses Concern over Acts of Violence in the Framework of Public Demonstrations in Colombia, No. 219/20, September 16.

<sup>485</sup> Semana, Three police officers charged for deaths during Sept. 9 demonstrations, January 4, 2021

<sup>486</sup> INDEPAZ, Informe de masacres en Colombia durante el 2020, December 13, 2020.

<sup>487</sup> ONIC, La ONIC rechaza las amenazas contra la vida y nuestros procesos organizativos, October 19, 2020. El Tiempo, Qué se sabe del atentado al senador Feliciano Valencia, October 29, 2020. Noticias RCN, En el Chocó a diario hay muertos que no están reportados: líder social, February 15, 2020.

<sup>488</sup> Consejo Regional Indígena del Cauca, La Minga del Suroccidente es alta política por la vida y la paz, October 17, 2020. Revista Semana, La minga indígena responde: "La movilización no está infiltrada", October 13, 2020.

<sup>489</sup> El Tiempo, Alerta en Chocó por desplazamiento masivo tras crimen de líder, December 5, 2020.

during 2020, with the aim of receiving input for the development of public policy, although it also noted that this process had been hampered by current limitations caused by the pandemic<sup>490</sup>.

257. On the other hand, the Commission is aware of the efforts made by the Colombian State to advance in the investigations into the murder of human rights defenders. According to information from the State, the Office of the Attorney General of the Nation (FGN) has made progress in the investigation of crimes against human rights defenders, especially with regard to homicides. It reported that between January 1, 2016 and December 2, 2020, the OHCHR reported 421 cases of homicides of human rights defenders. Of those, 404 are being investigated by the FGN, which has made headway with clarification of 60.89% of the cases. Convictions have been achieved in 63 of the cases reported.

258. However, the Commission observed and frequently condemned the fact that acts of violence against human rights defenders and social leaders continued during 2020.<sup>491</sup> According to State figures, between January and December 2020, 53 human rights defenders were murdered.<sup>492</sup> For its part, the Office of the OHCHR reported that as of December 15, 2020, there had been 120 murders of human rights defenders, of which 53 are verified.<sup>493</sup> Likewise, the Somos Defensores Program stated that through September 2020, 135 murders of human rights defenders had been reported.<sup>494</sup>

259. The IACHR has observed a territorial concentration of violence against human rights defenders in areas characterized by a limited presence of the State and the actions of illegal armed groups competing for dominance and control of the various illegal economies (drug trafficking, illegal mining, among others). In this regard, the Commission notes that most of the murders recorded during the year were concentrated in the departments of Antioquia, Cauca, Chocó, Huila, Norte de Santander, Córdoba, Nariño and Putumayo, mostly affecting social and indigenous leaders. In addition, the IACHR observed the persistence of threats against human rights defenders and social leaders, which, according to the MAPP/OAS, have been concentrated mainly in the departments of Bolívar, Cauca, Cesar, Norte de Santander, Putumayo, and Valle del Cauca.<sup>495</sup>

260. With regard to **women's rights**, the Commission welcomes the Constitutional Court's ruling recognizing the rights of former FARC female combatants who were victims of sexual and reproductive violence during the armed conflict.<sup>496</sup> The IACHR also welcomes the implementation

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<sup>490</sup> Government of Colombia, Diplomatic Note MPC/OAS No. 1669/2020, Report on follow-up to recommendations of the IV Country Report "Truth, Justice and Reparation: Fourth Report on the Situation of Human Rights in Colombia" **emphasis 2020**, October 30, 2020, para. 1121.

<sup>491</sup> IACHR, Press Release No. 062/20, IACHR expresses its condemnation of the murder of social leaders and reiterates its concern about the human rights situation in Colombia, March 26, 2020. IACHR, Press Release No. 174/20, IACHR expresses its concern over murders of human rights defenders and social leaders during the first half of the year in Colombia, July 23, 2020.

<sup>492</sup> Government of Colombia, Diplomatic Note MPC/OAS No. 043/21 of January 20, 2021, on file with the IACHR.

<sup>493</sup> OHCHR, Bachelet urges Colombia to increase protection of population due to increased violence in rural areas, December 15, 2020.

<sup>494</sup> Somos Defensores Program, The Virus of Violence, November 20, 2020.

<sup>495</sup> OAS, Twenty-ninth Report of the Secretary General to the Permanent Council on the Mission to Support the Peace Process in Colombia of the Organization of American States (MAPP/OAS), OEA/Ser.G CP/doc.5668/20, December 10, 2020, p.14.

<sup>496</sup> Insight crime, Colombia court ruling recognizes sexual violence in FARC, February 4, 2020.



of the Colombian Women's Observatory, 14 years after the passing of Law 1009/2006, which mandated its creation.<sup>497</sup>

261. However, the Commission notes with concern the report of 178 victims of femicide between January and September 2020.<sup>498</sup> The IACHR also notes that, according to a statement by the Deputy Attorney General, 24,850 women were reportedly victims of sexual violence between January and September 2020; and according to the data available, 249 complaints of domestic violence were reportedly filed in Colombia every day during 2020.<sup>499</sup>

262. Regarding the situation of **people of African descent and against racial discrimination**, the IACHR welcomes the institutional guidelines of the Ministry of Health for the prevention, detection, and management of cases of COVID-19 for the ethnic population in Colombia, particularly for the black, Afro-Colombian, Raizal and Palenquero communities, including differentiated, culturally sensitive health care.<sup>500</sup>

263. On the other hand, the Commission notes that the COVID-19 pandemic has deepened the historical racial inequality in the country, which is reflected in structurally precarious conditions for the realization of the economic, social, cultural, and environment rights (ESCER) in the departments where the settlements of the Afro-Colombian communities are located. According to the National Institute of Health, 46,953 Afro-descendants had been infected by COVID-19 and 1,556 had died by December 2020. The departments with the highest number of cases are Bogotá (7,472), Barranquilla (7,343), Antioquia (5,256), Cartagena (3,713), Valle del Cauca (3,658), Chocó (3,600), Atlántico (3,306) and Nariño (3,012).<sup>501</sup>

264. With regard to citizen security, the IACHR notes with concern the reports of the murders of Afro-descendent youths Anderson Arboleda, Harold Morales, and Julián Mauricio González, allegedly committed by police officers<sup>502</sup> or in police custody, as in the case of Juan Luis Guzmán.<sup>503</sup> Similarly, the Commission condemned the massacre of 5 Afro-Colombian adolescents, who were allegedly tortured and executed in the city of Cali on August 11, 2020, as well as the massacre of September 19, 2020, in the rural area of the municipality of Buenos Aires, Cauca, where 5 adults and a 16-year-old Afro-descendant were allegedly murdered.<sup>504</sup> The Commission also

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<sup>497</sup> El Espectador, [Tras 14 años de haber sido aprobado, crean el Observatorio Colombiano de Mujeres](#), March 6, 2020.

<sup>498</sup> El Tiempo, [En lo corrido del año, 178 mujeres han sido víctimas de feminicidio](#), September 22, 2020.

<sup>499</sup> El Tiempo, [Every day there are 249 complaints of domestic violence in Colombia](#), September 12, 2020.

<sup>500</sup> Ministry of Health, [mainstreaming the differential approach, guidelines for the prevention, detection and management of COVID-19 cases for the ethnic population in Colombia](#), June 2020.

<sup>501</sup> Caracol Radio, [1,556 Afros and 251 foreigners have died from COVID-19 in Colombia](#), January 05, 2021. *See also* New York Times, [How to Prevent the Coronavirus from Deepening Racial Inequality in Colombia](#), April 29, 2020.

<sup>502</sup> BBC News, [Anderson Arboleda: the death of a young black man after an alleged police beating sparked a debate on racism in Colombia](#), 4 June 2020. *See also* El Espectador, [Harold Morales dreamed of being a soccer player and was killed by a police bullet in Cartagena](#), September 1, 2020; Vorágine, [Dígale a mi mami que la amo: el último suspiro de Julián, asesinado por la Policía](#), September 15, 2020.

<sup>503</sup> Caribe Afirmativo, [Juan Luis Guzman, gay man, dies in the police station of Arboletes, Antioquia](#), August 10, 2020.

<sup>504</sup> IACHR, Press Release No. 251, [IACHR expresses its concern over the increase of violence in Colombia in territories with presence of illegal armed groups](#), October 13, 2020.

expressed its deep concern over the murder of Afro-Colombian community leader Patrocinio Bonilla, which occurred on August 11, 2020.<sup>505</sup>

265. In relation to the multiple discrimination faced by Afro-Colombian women, according to public information, on February 9, 2020, Luz Irina Solís Sierra, a 33-year-old pregnant woman, disappeared and days later her body was found in a rural area of Tumaco with signs of torture and sexual violence. On February 3, 2020, Loren Daniela Montaña Cortés, 10 years old, was reportedly disappeared and subsequently murdered in the backyard of a house next to her home in Tumaco.<sup>506</sup> The IACHR also received information from civil society on alleged harassment by illegal groups against AFRODES leaders, including Silvia Rodríguez and Ruby Cortes, community leaders from Tumaco, who reportedly received threats or were victims of attempted homicides.<sup>507</sup>

266. Regarding the **rights of persons in a situation of mobility**, the State reported that thanks to implementation of the Special Permit to Stay, as of June 2020, 762,857 Venezuelans have regular migratory status in the country.<sup>508</sup> It also stated that the Special Permit to Stay for the Promotion of Formalization (PEP-FF) was issued as an additional regularization mechanism. This permit seeks to reduce the levels of labor informality of the Venezuelan population and to provide a mechanism to avoid labor exploitation of people in an irregular situation.<sup>509</sup> Regarding the reduction of statelessness cases, the State pointed out that Law 1997 of 2019 extended the term of the exceptional administrative measure that grants Colombian nationality by birth to children of Venezuelan fathers and mothers born in Colombia until September 2021.<sup>510</sup>

267. The Commission was informed by civil society organizations about the forced displacement of ethnic communities as a result of clashes between armed groups in their ancestral territories. The IACHR took note of the displacement of approximately 4,000 people from the communities of San Pedro and Honda, Community Council of the Chaguí River, in the department of Nariño.<sup>511</sup>

268. With regard to the rights of **children and adolescents**, the IACHR expressed its grave concern regarding cases of torture and murders of adolescents in different parts of the country.<sup>512</sup> In

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<sup>505</sup> IACHR, [Tweet](#), August 13, 2020

<sup>506</sup> Document submitted to the IACHR by the Proceso de Comunidades Negras, El Estado de los derechos colectivos en comunidades negras y la profundización de la crisis humanitaria en el marco del COVID- 19, Informe trimestral enero-abril de 2020, April 20, 2020, p. 2.

<sup>507</sup> Document submitted to the IACHR by the International on Race, Equality and Human Rights, Denuncia por violaciones sistemáticas en contra de lideresas sociales afrodescendientes de la Asociación Nacional de Afrocolombianos Desplazados -AFRODES, December 30, 2020, p. 4 - 9.

<sup>508</sup> Government of Colombia, Aportes de Colombia para la elaboración del Informe Anual de la CIDH -Capítulo IV, Sección A "Panorama anual sobre la situación de los Derechos Humanos por país" correspondiente a 2020, par. 33.

<sup>509</sup> Government of Colombia, Aportes de Colombia para la elaboración del Informe Anual de la CIDH -Capítulo IV, Sección A "Panorama anual sobre la situación de los Derechos Humanos por país" correspondiente a 2020, par. 34.

<sup>510</sup> Government of Colombia, Aportes de Colombia para la elaboración del Informe Anual de la CIDH -Capítulo IV, Sección A "Panorama anual sobre la situación de los Derechos Humanos por país" correspondiente a 2020, par. 38.

<sup>511</sup> Document submitted to the IACHR by the Proceso de Comunidades Negras, El Estado de los derechos colectivos en comunidades negras y la profundización de la crisis humanitaria en el marco del COVID- 19, Informe trimestral enero-abril de 2020, April 20, 2020, p. 2.

<sup>512</sup> IACHR, Press Release No. 251/2020: [IACHR expresses concern over the increase of violence in Colombia in territories with the presence of illegal armed groups](#), October 13, 2020.

August and September, the Commission repudiated the murder of 11 adolescents, two of them in the department of Nariño, four in the department of Antioquia and five in the department of Valle del Cauca.<sup>513</sup> In addition, in November, the IACHR expressed its concern over the deaths of two adolescents in the department of Huila, which allegedly occurred as a result of gunshots fired by a soldier at a police checkpoint in San Agustín.<sup>514</sup> According to the information available, between January and September 2020 there were at least 93 murders of children and adolescents in Colombia.<sup>515</sup>

269. During 2020, the Commission also monitored with concern the ongoing recruitment of children and adolescents by paramilitary groups that was aggravated by the pandemic and the suspension of classes, according to figures from the Coalition against the involvement of children and youths in the armed conflict in Colombia (Coalico).<sup>516</sup> In the information sent for the drafting of this report, the State indicated that in July the Presidential Council for Human Rights, the Colombian Institute for Family Welfare, UNICEF, and other organizations launched the strategy "Súmate por mí" (Join me), which aims to establish protective environments for children and adolescents and prevent recruitment, exploitation, and sexual violence against children and adolescents. The information provided by the State indicates that the strategy will be implemented in 200 territories that, according to current indicators, are at high risk from the action of armed groups.<sup>517</sup> In addition, the IACHR expressed its concern regarding the serious situation of malnutrition affecting children and adolescents of indigenous peoples in the department of La Guajira.<sup>518</sup> In particular, the Commission lamented the death of 12 Wayúu children and urged the State to comply with the precautionary measure issued in 2015 for the protection of children and adolescents from the communities of Uribí, Manaure, Riohacha and Maicao, and to formulate and implement culturally appropriate public policies, agreed upon with the indigenous peoples, that guarantee the right to food and water.<sup>519</sup>

270. With regard to recruitment and trafficking in persons, the IACHR takes note of the report of the OAS Secretary General on the Mission to Support the Peace Process in Colombia, which indicates that three years after the signing of the peace agreement, illegal armed groups continue to

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<sup>513</sup> IACHR [@CIDH]. (Aug. 13, 2020). #Colombia The @IACHR repudiates violence against adolescents in the country. On #11August 7 adolescents were killed, 2 of them in the department of Nariño and 5 others in the department of Valle del Cauca. #NiñosNiñasAdolescentes #DDDHH 1. Twitter: <https://twitter.com/CIDH/status/1293891891617042434>. IACHR [@CIDH]. (Sep. 1, 2020). #Colombia The @IACHR repudiates violence against adolescents in the country. Between August 23 and 29, 4 adolescents were killed in different circumstances happened in 3 municipalities in the department of Antioquia. #NiñosNiñasAdolescentes #DDDHH 1. Twitter: <https://twitter.com/CIDH/status/1300782150334263297>

<sup>514</sup> IACHR [@CIDH]. (Nov. 19, 2020). #Colombia The @IACHR repudiates the murder of Emerson Dussán and José Irua aged 16 and 14 who, according to public information, were shot by a military officer at a police checkpoint in San Agustín, Huila. #NiñasNiñosAdolescentes #DDDHH 1. Twitter: <https://twitter.com/CIDH/status/1329442316877258753>

<sup>515</sup> El Universal, Brutality against children proliferates in Latin America, November 13, 2020.

<sup>516</sup> El Espectador, Lack of classes increased forced recruitment in Colombia, May 17, 2020.

<sup>517</sup> Republic of Colombia, Aportes de Colombia para elaboración del Informe Anual de la CIDH - Capítulo IV, Sección A, IACHR files, October 14, 2020, p. 44.

<sup>518</sup> Human Rights Watch, Colombia: Indigenous children at risk of malnutrition and death, August 13, 2020.

<sup>519</sup> IACHR [@CIDH]. (July 24, 2020). #Colombia The @IACHR reiterates its concern and alarm over the death of 10 #NiñasNiñosAdolescentes indigenous Wayúu, according to public information, due to malnutrition. Official data from 2015 indicates that 29.6% of indigenous girls and boys aged 0-4 years suffer from chronic malnutrition. 1 Twitter: <https://twitter.com/CIDH/status/1286664463370919937>

recruit children and adolescents.<sup>520</sup> In this regard, the IACHR recalls its Resolution 04/19, on the Inter-American Principles on the Human Rights of All Migrants, Refugees, Stateless Persons and Victims of Trafficking in Persons, and calls on States to monitor, prevent, identify, and address risk situations, including forced recruitment.<sup>521</sup>

271. With regard to **memory, truth, and justice**, the IACHR values the accreditation of 308,141 individual victims and collective subjects before the Special Jurisdiction for Peace (JEP).<sup>522</sup> The Commission also highlights the fact that the Unit for the Search for Disappeared Persons has managed to coordinate, together with other bodies, the dignified handover of 97 bodies of disappeared persons and organized the reunion of 3 persons with their families while they were still alive.<sup>523</sup> In addition, the Commission welcomes the dissemination of the National Search Plan - which includes 430 searchers, 112 organizations and 12 entities - and the elaboration of 14 Regional Search Plans.<sup>524</sup>

272. Likewise, in the framework of the hearing before the IACHR, civil society organizations highlighted situations that could generate obstacles to access to justice for girls, women, and LGBTI victims of sexual violence during the armed conflict in the framework of the cases prioritized by the SJP and requested specific measures on victimization by sexual and reproductive violence and motivated by the sexuality of the victims in that context.<sup>525</sup> For its part, the Commission for the Clarification of Truth, Coexistence, and Non-Repetition (CEV) presented to the IACHR, in a public hearing, the results achieved so far.<sup>526</sup> The CEV pointed to various challenges it faces with regard to fulfilling its mandate, in particular, difficulty in accessing information held by certain state institutions, the denial of direct access to documentation, the delivery of fragmented or incomplete answers, and untimely responses. On that occasion, the IACHR expressed its concern about the impact that these challenges could have on the drafting of the Final Report that the Truth Commission is required to deliver in 2021.

273. On the other hand, the IACHR takes note of the judgment issued by the Council of State requiring unification of jurisprudence on grounds of legal importance with respect to the criteria to be followed in cases in which the expiration of the action for direct reparation for crimes against humanity, war crimes. or any other matter from which the pecuniary responsibility of the State can be inferred.<sup>527</sup> In particular, the Council of State determined that: "(i) in such events the term [Tr. i.e.,

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<sup>520</sup> MAPP-OAS, Twenty-eighth Report of the Secretary General to the Permanent Council on the Mission to Support the Peace Process in Colombia of the Organization of American States (MAPP/OAS), May 18, 2020.

<sup>521</sup> IACHR, Resolution 04/19 Inter-American Principles on the Human Rights of All Migrants, Refugees, Stateless Persons and Victims of Trafficking in Persons, December 7, 2019, 56.

<sup>522</sup> JEP, Comunicado 175 of 2020 'Accountability 2020: The JEP moves forward with action and results', December 11, 2020.

<sup>523</sup> UBPD, Avanzan las acciones humanitarias de la Unidad de Búsqueda de Personas dadas por Desaparecidas en Colombia, December 21, 2020.

<sup>524</sup> El Espectador, Arranca el Plan Nacional de Búsqueda de Desaparecidos en el conflicto, May 6, 2020; UBPD, Avanzan las acciones humanitarias de la Unidad de Búsqueda de Personas dadas por Desaparecidas en Colombia, December 21, 2020; UBPD, Avanzan las acciones humanitarias de la Unidad de Búsqueda de Personas dadas por Desaparecidas en Colombia, December 21, 2020.

<sup>525</sup> IACHR, Public Hearing, 175th Period of Sessions, "Gender and the Peace Accords in Colombia", March 5, 2020.

<sup>526</sup> IACHR, Public Hearing, 178th Period of Sessions, "Comisión para el Esclarecimiento de la Verdad, la Convivencia y la No Repetición de Colombia balance y desafíos", December 8, 2020.

<sup>527</sup> Judgment of the Council of State, Full Chamber of Administrative Litigation, Third Section, judgment of January 29, 2020, case no. 85001-33-33-002-2014-00144-01, Consejera Ponente: Marta Rubia Velásquez Rico.

the time allowed] to sue established by the legislator [two years, according to Decree 01 of 1984 and Law 1437 of 2011] is enforceable; ii) this term, except in the case of forced disappearance, which is expressly regulated by law, is calculated from the time when the affected parties knew or should have known of the State's participation by action or omission and became aware of the possibility of holding it liable for pecuniary responsibility, and iii) the relevant term does not apply when situations are observed that would have materially prevented the exercise of the right of action and, once they have been overcome, the statutory term will begin to run."<sup>528</sup> In this regard, the IACHR recalls that legal actions for reparation for the harm caused by serious human rights violations and international crimes should not be subject to the statute of limitations because it constitutes an obstacle to effective access to justice for victims in order to effectively exercise their right to reparation<sup>529</sup> On the other hand, the Commission welcomes the fact that, on December 10, Congress approved the extension of the Victims Law for another 10 years.<sup>530</sup>

274. In relation to **the rights of the elderly**, the Commission highlights the approval by Congress of the Inter-American Convention for the Protection of the Rights of Older<sup>531</sup> Persons, which constitutes a step forward in the promotion, protection, and guaranteeing of recognition and full enjoyment and exercise, under conditions of equality, of all human rights and fundamental freedoms of the elderly.

275. Regarding the rights of **lesbian, gay, bisexual, trans, gender diverse and intersex (LGBTI) persons**, the Commission welcomes the implementation of the Plan of Action of Decree 762-2018 "Public policy to guarantee the effective exercise of the rights of persons who are part of the LGBTI social sectors of persons with diverse sexual orientations and gender identities", which contains measures to guarantee the rights of LGBTI persons, as well as to prevent and react to acts of violence and discrimination.<sup>532</sup> The Commission also welcomes the incorporation of a diversity perspective within the Special Jurisdiction for Peace (JEP),<sup>533</sup> which has a Gender Commission and has implemented actions such as the effective use of inclusive language in information systems and document management.<sup>534</sup>

276. Notwithstanding the progress made, the Commission takes note of acts of discrimination and violence against LGBTI persons and those perceived as such;<sup>535</sup> according to information from the Ombudsperson's Office, at least 63 acts of lethal violence were recorded during

<sup>528</sup> Judgment of the Council of State, Full Chamber of Administrative Litigation, Third Section, judgment of January 29, 2020, case no. 85001-33-33-002-2014-00144-01, Consejera Ponente: Marta Rubia Velásquez Rico. p. 42.

<sup>529</sup> J/A Court H.R., Case of Órdenes Guerra et al. v. Chile. Merits, Reparations and Costs. Judgment of November 29, 2018, par. 88.

<sup>530</sup> El Tiempo, Colombia extends for 10 years the Victims and Land Restitution Law, January 9, 2021.

<sup>531</sup> Law No. 2055 approving the "Inter-American Convention on the Protection of the Human Rights of Older Persons" adopted on June 15, 2015 in Washington D.C., September 10, 2020.

<sup>532</sup> State of Colombia, Informe de seguimiento a recomendaciones del IV informe país "Verdad, Justicia y Reparación: Cuarto informe sobre la situación de Derechos Humanos en Colombia" énfasis 2020, paras. 990- 994.

<sup>533</sup> The State highlighted the publication of an academic article in conjunction with the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) related to the issue of access to justice for LGBTI persons in the JEP.

<sup>534</sup> State of Colombia, Informe de seguimiento a recomendaciones del IV informe país "Verdad, Justicia y Reparación: Cuarto informe sobre la situación de Derechos Humanos en Colombia" énfasis 2020, pp. 224-227.

<sup>535</sup> Ombudsman's Office, Early Warning 37-2020, August 13, 2020.

2020.<sup>536</sup> In the context of the pandemic, the IACHR notes that trans, non-binary and gender-diverse people expressed alarm at the adoption of measures in some cities to prevent infection by designating specific days for the free movement of people, differentiating between women and men.<sup>537</sup>

277. The Commission also notes that trans women have been victims of discrimination and violence in the context of interventions by State agents. In this regard, the Commission took note of the allegations of police abuse against Emma Hidalgo in the Medellín subway<sup>538</sup> and condemned the murder of Juliana Giraldo Díaz, a trans woman, as a result of a shot fired by a member of the Third Division of the National Army in Cauca.<sup>539</sup> The Commission issued a similar statement in response to reports that trans women engaged in sex work in Bogota were injured during a police intervention on June 21 as part of the measures to contain the pandemic.<sup>540</sup>

278. Regarding **persons with disabilities**, the State reported on the implementation of the Peace Agreement regarding the Unified Registry of Victims and the inclusion in the registration process of the criterion of self-recognition of the situation of disability. As of August 31, this registry included 392,855 persons with disabilities, which represents 4.3% of the total number of victims.<sup>541</sup> Likewise, the State highlighted the Social Inclusion Program for the attention of persons with disabilities, victims of the armed conflict, through which a diagnostic assessment has been performed and several actions have been taken in a number of areas such as health, education, work, and empowerment, with an intersectional<sup>542</sup> approach.

279. With regard to **persons deprived of liberty**, the IACHR highlighted Colombia's initiatives to contain the spread of COVID-19 in penal establishments, such as: i) the guidelines and protocols for care to ensure the safety of persons deprived of liberty drawn up by the National Penitentiary and Prison Institute (INPEC),<sup>543</sup> and ii) Colombia's Legislative Decree No. 546-2020, published on April 14, 2020, which provides for alternative measures to deprivation of liberty for persons who are most vulnerable to the virus.<sup>544</sup> For its part, the State also informed the IACHR about

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<sup>536</sup> Corporación Caribe Afirmativo, Sertransen Colombia: una carrera contra la muerte, September 25, 2020; Colombia Diversa, Herramienta de Visualización de las cifras de violencia LGBTI, consulted on December 10, 2020 with values adjusted to "January 1, 2020 - December 10, 2020", reflecting that from January to July 2020 there were 37 reports of violence against 43 victims.

<sup>537</sup> El Espectador, Burlas, discriminación y puñaladas: la violencia que revela el Pico y Género, May 3, 2020; El Espectador, Hombre que apuñaló a mujertransen el Sur de Bogotá fue enviado a la cárcel, May 7, 2020.

<sup>538</sup> Caracol TV, Denuncian abuso policial a mujer trans en metro de Medellín, July 26, 2020.

<sup>539</sup> IACHR, IACHR Condemns Murder of Juliana Giraldo Diaz, September 25, 2020; Colombian Army, Press Release, September 24, 2020; France 24, Transwoman dies at hands of military officer in Colombia rocked by police violence, September 24, 2020.

<sup>540</sup> IACHR, The IACHR expresses its concern over reports that trans women engaged in sex work in Bogotá were injured during a police intervention, June 23, 2020.

<sup>541</sup> Report of the Colombian State in follow-up to IACHR recommendations issued in the Country Report "Truth, Justice and Reparation: Fourth Report on the Situation of Human Rights in Colombia". October 30, 2020, pp. 73-74.

<sup>542</sup> Report of the Colombian State in follow-up to IACHR recommendations issued in the Country Report "Truth, Justice and Reparation: Fourth Report on the Situation of Human Rights in Colombia". October 30, 2020, pp. 77-107.

<sup>543</sup> IACHR, Press Release 66/20 - The IACHR urges States to guarantee the health and integrity of persons deprived of liberty and their families in the face of the COVID-19 pandemic. Washington, D.C., March 31, 2020.

<sup>544</sup> IACHR, Press Release 212/20 - Faced with the COVID-19 pandemic, the IACHR expresses concern about the special situation of risk faced by persons deprived of liberty in the region. Washington, D.C., September 9, 2020; Republic of Colombia, Ministry of Justice and Law, Legislative Decree 546 of 2020, April 14, 2020.

general measures adopted by INPEC in the context of the pandemic, including the order to prison directors to identify and adapt temporary locations for the placement of probable cases, the issuance of an institutional directive for the delivery of hygiene kits to all persons deprived of liberty, and the implementation of a virtual visits strategy.<sup>545</sup>

280. Despite the above, the IACHR warns that the Follow-up Commission for Judgment T-388 of 2013 reported that the alternative measures adopted through Decree No. 546-2020 would not be sufficient since they exclude most of the persons deprived of liberty and include several provisions that limit their effectiveness in reducing overcrowding.<sup>546</sup> Similarly, civil society organizations have alerted the IACHR about the inadequacy of the measures adopted for the prevention and attention of COVID-19 in Colombian prisons,<sup>547</sup> which reportedly triggered several riots in protest.<sup>548</sup> In particular, the IACHR highlighted events in 13 Colombian prisons, including the riot that occurred on March 21 at the La Modelo prison in Bogotá, where 23 people were killed and 80 were injured.<sup>549</sup>

## COSTA RICA

- **General considerations**

281. With regard to the **progress made in the** face of the COVID-19 pandemic, the IACHR highlights the measures adopted to contain the spread of the virus. The IACHR highlights the approval of the constitutional reform to recognize "the basic and inalienable human right to drinking water" on May 20, as well as the entry into force of equal marriage in Costa Rica on May 26, 2020.

282. In terms of **challenges**, the Commission notes with concern the reports received regarding impunity for acts of violence committed against human rights defenders and indigenous leaders in the area of Buenos Aires, Puntarenas province, Costa Rica.

283. The State responded to the request for information sent for the preparation of this chapter.<sup>550</sup>

- **Specific topics**

284. Regarding the measures taken to contain and prevent the spread of **COVID-19**, the Costa Rican State informed that, as of March 8, 2020, the date on which it was decided to raise the current health alert from green to yellow, the Emergency Operations Center (COE) began permanent

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<sup>545</sup> Government of Colombia. Contributions of Colombia for the preparation of the Annual Report of the IACHR - Chapter IV, Section A "Annual Overview of the Human Rights Situation by Country" Corresponding to 2020. October 14, 2020.

<sup>546</sup> Commission for Follow-up of Judgment T-388 of 2013 (CSS), Review of constitutionality of Legislative Decree 546 of April 14, 2020, adopting measures to reduce overcrowding within the framework of the State of Economic, Social and Ecological Emergency, May 12, 2020, p. 2.

<sup>547</sup> Letter to the IACHR Ref. Alert on investigations of excessive use of force in La Modelo prison and other human rights violations in Colombian prisons. June 11, 2020.

<sup>548</sup> IACHR, Press Release 66/20 - The IACHR urges States to guarantee the health and integrity of persons deprived of liberty and their families in the face of the COVID-19 pandemic. Washington, D.C., March 31, 2020.

<sup>549</sup> IACHR, Press Release 66/20 - The IACHR urges States to guarantee the health and integrity of persons deprived of liberty and their families in the face of the COVID-19 pandemic. Washington, D.C., March 31, 2020.

<sup>550</sup> Ministry of Foreign Affairs and Worship of Costa Rica. Note no. CROEA-OG-1157-20, October 2, 2020.



coordination and the activation of thematic operational tables allowing for comprehensive attention to the situation, inter-agency mobilization of resources, and the convening of the Emergency Operations Center (COE) twice a day. Among other actions, on March 13, the State ordered preventive closures of educational centers at risk and a 50% reduction in the approved capacity of public meeting places. On March 16, the Ministry of the Presidency issued the Declaration of National Emergency, banned the arrival of foreigners, and ordered the mandatory isolation of anyone entering the country. In the same declaration, the State also ordered the suspension of classes in all educational centers. As underlined by the State, in Costa Rica, "unlike other countries, no guarantees have been suspended, and therefore no one runs the risk of being detained or suffering reprisals for exercising their freedom of transit, or their freedom of association."<sup>551</sup> On November 1, 2020, Costa Rica began opening air borders to all countries "as long as visitors comply with the migratory requirements established prior to the pandemic and in the current health situation."<sup>552</sup> However, as of the closing of this report, the restriction on entry of foreigners via land borders remained in force, with some exceptions.<sup>553</sup>

285. With regard to **democratic institutions**, the IACHR followed up on the social protests that began on September 30, 2020, in response to the government's intention to negotiate a loan with the International Monetary Fund (IMF) to address the economic crisis caused by the COVID-19 pandemic. These protests lasted until the end of October and included the blocking of roads and strategic border posts, which reportedly increased social tension. According to public information, in the first eight days of protests some 60 people were arrested and 100 policemen were injured in clashes with demonstrators.<sup>554</sup> On October 4, the Executive announced that it would not continue with the initial proposal with the IMF and called for a dialogue with a number of actors.<sup>555</sup> On November 21, the Executive announced the agreements reached by the Multisectoral Committee (*Mesa Multisectorial*), under which it would seek to continue negotiations with the IMF.<sup>556</sup>

286. On the other hand, during the period under review, the IACHR took note of the Preliminary Report of the Electoral Experts Mission of the Organization of American States (OAS), which commended the electoral authorities and political parties for their commitment to democracy and successfully holding elections on February 2. All in all, 6,138 authorities were elected, including mayors, councilors, trustees, and members of the District Councils. At the same time, the IACHR voices its concern regarding ongoing challenges to guaranteeing women's political participation under equal conditions. On Election Day, only 9 women were elected as mayors. As indicated by the OAS Mission,

<sup>551</sup> Ministry of Foreign Affairs and Worship of Costa Rica. Costa Rica Report to the IACHR on measures to prevent, address and contain the COVID-19 pandemic, June 10, 2020.

<sup>552</sup> According to announcements, the requirements requested included: taking the RT-PCR test and obtaining a negative result; the test must be taken a maximum of 72 hours before the flight to Costa Rica; a mandatory travel insurance that covers lodging in case of quarantine and medical expenses due to COVID-19 disease. This insurance can be international or purchased from Costa Rican insurers. Government of Costa Rica, Costa Rica will open air border to all countries in November, October 16, 2020.

<sup>553</sup> Presidency of the Republic, Temporary migratory measures in the process of reopening borders in the framework of the State of National Sanitary Emergency due to Covid-19, No. 42690-MGP-S, November 1, 2020.

<sup>554</sup> On October 7, 2020, the Executive denounced the infiltration of organized crime in the demonstrations, allegedly to incite violence against law enforcement officers. This was also acknowledged by some of the leaders of the protests. Twitter account of the President of the Republic of Costa Rica 2018 -2022, Carlos Alvarado Quesada (@CarlosAlvQ), publication of October 7, 2020.

<sup>555</sup> Deutsche Welle, "Protests in Costa Rica leave 60 detained and 100 police officers injured," October 8, 2020; El Comercio, "Costa Rica completes week of protests in rejection of IMF agreement," October 7, 2020.

<sup>556</sup> Government of Costa Rica, "Mesa Multisectorial Logra 58 Acuerdos Para Reducir el Deficit Fiscal", November 21, 2020.

this was reportedly a consequence of the electoral authorities' decision to postpone until the 2024 elections the application of parity in the leading plurinominal municipal positions and its decision that horizontal parity is not applicable to the election of mayors.<sup>557</sup>

287. On the cross-cutting issue of **human rights institutions**, the IACHR notes with concern the joint declaration of the Ibero-American Federation of Ombudsmen and the Network of National Human Rights Institutions of the American Continent (RINDHCA), in support of the Ombudsperson of Costa Rica, in light of the questioning and attacks by some members of the Legislative Branch following the presentation of her report to the Legislative Plenary on June 25, 2020.<sup>558</sup> In the same vein, the Central American Council of Human Rights Ombudspersons (CCPDH) condemned such attacks and some legislators' threat to dismiss the Ombudsperson because of her efforts to investigate violations of the rights of Costa Rican citizens, including the right to protection of their private data.<sup>559</sup>

288. For its part, the State emphasized that "it holds a leading position in the international arena in the field of human rights, which requires active work by the State, both in compliance with ratified treaties on human rights, as well as in their promotion". It also highlighted actions such as: the work of the Inter-Agency Commission for the follow-up and implementation of international human rights obligations<sup>560</sup>; the work done to update the First Report and Second Plan of Action on the National Policy for a society free of racism, racial discrimination, and xenophobia; the update on the drafting the National Report on the Protocol of San Salvador and the Plan of Action of the Universal Periodic Review. Finally, it highlighted the implementation of SIMORE in Costa Rica as of 2019, as well as the training of Foreign Ministry officials and civil society organizations registered in the Permanent Consultation Entity (EPC) in the use of this platform.<sup>561</sup> Likewise, the Commission takes note of the Open State Action Plan, presented in December by the Executive and Judicial Branches, in which they commit to work for a more open, inclusive, responsive, and participatory country. This Plan implies a commitment on the part of public institutions and civil society to continuously seek to improve processes and public services, in areas such as employment, public safety, economic recovery, education, social inclusion, and efforts to combat corruption; all of which are linked to the fulfillment of the Sustainable Development Goals (SDGs).<sup>562</sup>

289. With regard to **citizen security**, the Costa Rican State informed the IACHR about the measures implemented in the context of the COVID-19 pandemic. Regarding preventive actions, the

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<sup>557</sup> OAS, [OAS Electoral Mission salutes the people of Costa Rica for a successful election day](#), February 2, 2020.

<sup>558</sup> Federación Iberoamericana del Ombudsman, "[FIO Y RINDHCA rechazan ataques sobre ombudsman de 4 países](#)", July 14, 2020.

<sup>559</sup> El Mundo, "[CCPDH preocupado ante ataques contra defensora de los habitantes](#)", June 29, 2020; CCPDH, "[Pronunciamiento 004/2020 Ante amenaza a la independencia y continuidad de la titular de la Defensoría de los Habitantes de Costa Rica](#)", June 29, 2020.

<sup>560</sup> The Inter-Agency Commission (CIIDDH) is constituted as a permanent advisory body of the Executive Branch, attached to the Ministry of Foreign Affairs and Worship, with the purpose of (<https://www.elmundo.cr/costa-rica/ccpdh-preocupado-ante-ataques-contra-defensora-de-los-habitantes/>) coordinating the implementation at the national level of international human rights obligations, through coordination with central government institutions, branches of government, and civil society organizations. This commission meets every 2 months. It is composed of 31 institutions (ministries and autonomous institutions) and representatives of the Judiciary, the Supreme Electoral Tribunal, the Ombudsman's Office and the Legislative Assembly, as observers and with the duty to provide information. Ministry of Foreign Affairs and Worship of Costa Rica. Note no. CROEA-OG-1157. CROEA-OG-1157-20, October 2, 2020, p. 3.

<sup>561</sup> Ministry of Foreign Affairs and Worship of Costa Rica. Note no. CROEA-OG-1157-20, October 2, 2020, pp. 2-5.

<sup>562</sup> Government of Costa Rica, "[Costa Rica presents the Open Government Action Plan](#)", December 9, 2020.

State emphasized that the monitoring of cases of domestic violence was not interrupted during this period; in addition, it used information platforms such as the radio magazine "*El Policía en su Casa*" to provide relevant information on the subject. At the same time, the State deployed several operations to ensure compliance with the administrative measures and sanitary provisions of the Ministry of Health to prevent the spread of COVID-19.<sup>563</sup>

290. In relation to **access to justice and judicial independence**, the Costa Rican State indicated that the judiciary promotes institutional policies and actions to ensure access to justice for all persons who demand its services, under the principle of judicial independence recognized in Article 9 of the Constitution. In this regard, it highlighted advances and good practices such as the formulation and approval of the *Regulation for the Prevention, Identification, and Proper Management of Conflicts of Interest in the Judiciary*; the work done to formulate an Anti-Corruption Policy<sup>564</sup>; awareness campaigns on the importance of judicial independence; academic forums to highlight the judicial response to the COVID-19 pandemic, and so on. Finally, the State highlighted a wide range of actions undertaken in recent years by the Public Defender of Costa Rica to ensure access to justice for historically discriminated groups such as indigenous peoples, persons deprived of liberty, persons with disabilities, and the elderly.<sup>565</sup>

291. In connection with the hearing on "Judicial Independence in Costa Rica," the IACHR received information on the adoption of a series of measures and norms, as well as pressures exerted by other public authorities that reportedly impaired the independence of the judiciary in Costa Rica. In particular, civil society organizations referred to the impairment of the rights of their workers and retired senior citizens as a consequence of the Law for Strengthening Public Finance; irregularities in the appointment of judges; interference in the management of the Judicial Branch budget and its alleged reduction; the presentation of bills that would restrict the right to strike of Judicial Branch personnel, among others.<sup>566</sup> The State, for its part, informed the IACHR that the process of adopting

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<sup>563</sup> Among them: Permanent road control operations in Lourdes de Abangares and Potrerillos; Vehicle restriction operations in accordance with the current measure, in the yellow and orange zones; Control and supervision of the regulation of 50% of capacity in stores, bars, restaurants, and banks; Oversight of public places with entry restrictions, including patrols carried out on beaches and in parks; Immigration control operations, in quarantines, agro-industries, construction works, and at bus stops; Attention to complaints about parties on playing fields, concentration of people in places of worship and crowds on public roads. Ministry of Foreign Affairs and Worship of Costa Rica. Note no. CROEA-OG-1157-20, October 2, 2020, pp. 40-47.

<sup>564</sup> The construction of the institutional anti-corruption strategy is the responsibility of the Transparency and Anti-Corruption Commission and the Compliance Office of the Judicial Branch, under the coordination of the magistrate and Vice President of the Supreme Court of Justice, Patricia Solano Castro. The proposal by the Transparency and Anticorruption Commission is vital to ensure continuity of the set of affirmative actions that the Judicial Branch is taking to fight a fraud and corruption within the institution". It is a policy of great institutional and social interest to safeguard judicial integrity and independence. It is framed as part of a public commitment to probity as a duty and to enhance administration of justice, transparency, accountability and impartiality in decision-making that affects users and physical or legal stakeholders that interact with the institution. Ministry of Foreign Affairs and Worship of Costa Rica. Note no. CROEA-OG-1157-20, October 2, 2020, p. 12.

<sup>565</sup> Ministry of Foreign Affairs and Worship of Costa Rica. Note no. CROEA-OG-1157-20, October 2, 2020, pp. 16ff.

<sup>566</sup> According to the information received by the IACHR, a series of regulatory texts are currently being debated that will also have a negative impact on the independence of the Judicial Branch: 1) Bill No. 21.130, which intends to eliminate the retirement fund of the Judicial Branch and establishes a special solidarity contribution; 2) Bill No. 21.537, which seeks to have the special solidarity contribution of retired persons start at 1.6 million colones [CHECK ORIGINAL]; 3) Bill No. 21.345, which would stop financing the retirement fund and enable the Fund's Administrative Board to reduce the employer's contribution from the current 10.36% to 5.5% [CHECK ORIGINAL]; 4) "Public Employment Framework Bill", which seeks to standardize salary levels and categories for the entire public sector, which could affect the Judicial Branch and judicial independence; 5) Bill No. 20.893, which reduces the period of appointment of magistrates to 5 years with only one possibility of reelection. Inter-

the *Law for Strengthening Public Finance* includes consultation and dialogue with the Judicial Branch; it also pointed out that the reforms adopted through this law are in line with the budgetary allocation established in Article 177 of the Constitution. During the hearing, the State acknowledged that these issues deserve full attention and reaffirmed its recognition of, and support for, human rights standards.<sup>567</sup>

292. With respect to the **rights of persons in human mobility**, the Commission took note of the creation of a "special temporary category of complementary protection" that benefits nationals of Cuba, Nicaragua, and Venezuela. This category is reportedly intended for persons who entered the country before March 18, 2020, who do not have a criminal record, and who applied for asylum but were rejected for not meeting the requirements. Thus, this category permits regular stay in the country for two years, which may be extended, and allows the beneficiaries to perform remunerated labor activities.<sup>568</sup> With regard to **trafficking in persons**, the Commission welcomes various actions fostered by the National Women's Institute to combat trafficking, commercial sexual exploitation, and harassment<sup>569</sup>

293. Regarding the **rights of LGBTI persons**, on May 26, 2020, the Inter-American Commission welcomed the entry into force of equal marriage in Costa Rica, thanks to a ruling by its Constitutional Court.<sup>570</sup> In this regard, the State stressed that this measure "attests to the strength of its democratic institutionality, its firm conviction in the rule of law, its commitment to international human rights law, its subjection to the Inter-American Human Rights System and, above all, its firm conviction that no one should be excluded from social progress."<sup>571</sup>

294. Despite the above, the Commission learned about the national context prior to the entry into force of same-sex marriage, which included the annulment of marriage between two women, legislative initiatives to delay the entry into force of same-sex marriage, as well as a physical attack by a congressman on an openly gay legislative advisor.<sup>572</sup> The Commission also received

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American Institute for Social Responsibility and Human Rights, Information for the thematic hearing on the impairment of judicial independence in Costa Rica, February 18, 2020. On file with the IACHR.

<sup>567</sup> IACHR, [Public Hearing "Judicial Independence in Costa Rica"](#), held in the framework of the 175th regular session, March 5, 2020; Ministry of Finance of Costa Rica. Response to queries formulated in official letter DM-DJO-0468-2020 regarding the Hearing "Judicial Independence in Costa Rica" Inter-American Commission on Human Rights. Note no. DM-397-2020. DM-397-2020, April 7, 2020. On file with the IACHR.

<sup>568</sup> La Gaceta, Costa Rica, [RESOLUTION No. DJUR-0164-10-2020-JM](#), November 12, 2020, p- 124. DW, [Costa Rica creates special refugee category for three countries](#), November 13, 2020. IACHR [@CIDH]. (Nov. 14, 2020). [The @IACHR hails decision to create humanitarian migration category](#) [Tweet]. Twitter. <https://twitter.com/CIDH/status/1327737235182145542>.

<sup>569</sup> National Institute of Women, Costa Rica, [Trafficking, Commercial Sexual Exploitation and Harassment](#), December 11, 2020.

<sup>570</sup> "The @IACHR celebrates the entry into force of the recognition of equal marriage after 18 months of the moratorium established in the decision of the Supreme Court of Justice, following the standards of equality and non-discrimination of the @CorteIDH in OC 24/17." Twitter account of the IACHR (@CIDH) [publication of May 26, 2020](#).

<sup>571</sup> Ministry of Foreign Affairs and Worship of Costa Rica. Note no. CROEA-OG-1157-20, October 2, 2020, p. 5. CROEA-OG-1157-20, October 2, 2020, p. 5.

<sup>572</sup> CNN, [Anulan matrimonio entre dos mujeres en Costa Rica](#), February 4, 2020; Presidential Commissioner Luis Salazar, [Esta es la vergonzosa moción para aplazar otros 18 meses la entrada en vigencia de matrimonio igualitario](#), May 11, 2020; La República, [26 diputados quieren posponer matrimonio igualitario por 18 meses](#), May 12, 2020; El Periódico CR, [Deputy Gourzong assaults PLN advisor over equal marriage motion](#), May 12, 2020; CR Hoy, [PLN Youth asks Deputy David Gourzong to resign](#), May 12, 2020; Delfino, [Prosecutor's Office opens criminal case against Deputy David Gourzong after assaulting advisor](#), May 13, 2020; Delfino, [What can motivate a judge to betray the law?](#), May 18, 2020; Teletica, [Tribunal de](#)

information on acts of discrimination and violence in Costa Rica<sup>573</sup>; among other cases, it laments the murder of a trans woman in Playas del Coco.<sup>574</sup>

295. Regarding the situation of **human rights defenders**, the IACHR received troubling information about the situation of impunity in Costa Rica in cases involving threats, harassment, violence, and killings of human rights defenders and indigenous leaders.<sup>575</sup> In this context, on February 24, 2020, the IACHR condemned the murder of Jehry Rivera, a beneficiary of precautionary measures and Brörán indigenous leader. According to available information, he was murdered while peacefully defending his ancestral lands.<sup>576</sup> The IACHR appreciated the statements made at the time by the president of Costa Rica, Carlos Alvarado Quesada, indicating that the alleged perpetrator had been arrested.<sup>577</sup>

296. The IACHR also received information on the situation of Pablo Sibar, a beneficiary of precautionary measures, community leader, and indigenous defender of the rights of the Brörán people, who has suffered several death threats and physical attacks, which have increased since March 2020 as a result of his work in the same region, promoting peaceful resistance initiatives for the restitution of indigenous lands that were usurped by non-indigenous occupants. According to the information received by the IACHR, these attacks have not yet been investigated. Minor Ortíz, a Bribri indigenous defender, has also reportedly suffered constant death threats and aggressions, including 6 homicide attempts, leaving him with a bullet in each leg and a hot iron mark on his chest. After the last homicide attempt in March 2020, the perpetrator was released and only received restraining measures that were allegedly not respected. Despite numerous complaints and reports of death

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la Ética del PLN decidirá sanciones contra diputado David Gourzong, May 19, 2020; AM Prensa, Moción para retrasar 18 meses matrimonio igualitario se rechaza por 33 diputados, May 19, 2020.

<sup>573</sup> Delfino, Video sobre agresión a mujeres trans "es un llamado de atención a todo el mundo", March 3, 2020; El Periódico CR, Estos son los sujetos que agredieron a dos mujeres trans en San José, March 3, 2020; CR Hoy, Miedo y desprotección impiden que trans denuncien agresiones, March 6, 2020; La Nación, ¿Participaba Erick Rodríguez en chat llamado Muerte LGBTI Y NICAS? 'No voy a referirme a chats, son privados', 9 September 2020; AM Prensa, Mincho Mayorga: "Este gobierno lo único que saber manejar es la agenda gay", 13 October 2020; La República, Margarita Salas lamenta que protestas incluyan a grupos con intereses en afectar a población LGBTIQ, 14 October 2020; Teletica, Melvin Núñez sobre pesca de arrastre: "Hoy es un viernes oscuro, fatal para Puntarenas", 30 October 2020; El Mundo CR, Adoctrinar e imponer una agenda LGTBI en nuestras escuelas y colegios es sumamente delicado, señala Alvarado, 20 November 2020.

<sup>574</sup> David Zuiga, Banco BCR los de seguridad de la sede de Santa Teresita están acosándonos a mi y a mi novio por ir de la mano, August 18, 2020; Amelia Rueda, Separan temporalmente a tres guardas de seguridad en BCR por acoso homofóbico a pareja, August 21, 2020; Asociación Mulabi, Denunciamos actos de discriminación, violencia y criminalización por parte de agentes de la Fuerza Pública, October 16, 2020; Voz de Guanacaste, Explicativo: a TRANS WOMAN was murdered in Playas del Coco, Dec. 8, 2020.

<sup>575</sup> CEJIL, "Costa Rica: International organizations call for an end to violence and impunity in cases of defenders of indigenous peoples", October 5, 2020.

<sup>576</sup> "The @IACHR condemns the death of Jehry Rivera of the Teribe People (Broran) that occurred on February 24, 2020 in the Térraba territory, in Potrero Grande de Buenos Aires, Puntarenas. #IACHR #DDHH" Twitter account of the IACHR (@IACHR), publication of February 25, 2020.

<sup>577</sup> "I condemn the murder of indigenous leader Yeri Rivera in Térraba. I deeply regret the acts of violence that occurred today in that community. We have already proceeded to the arrest of the alleged perpetrator. Tomorrow we will announce more measures in this matter". Twitter account of Carlos Alvarado Quesada, president of the Republic of Costa Rica, 2018-2022 (@CarlosAlvQ), publication of February 25, 2020.

threats against Minor and his family, the State has not yet implemented any concrete measures to protect his life and integrity.<sup>578</sup>

297. On March 18, one year after the murder of Sergio Rojas, the IACHR expressed concern about the situation of threats, harassment and violence against indigenous leaders and human rights defenders in Costa Rica.<sup>579</sup> In response to that communiqué, the State of Costa Rica reiterated its condemnation of the murder of the indigenous leader and the acts of violence in the indigenous territories of Salitre and Térraba.<sup>580</sup> Despite the above, on September 24, 2020, the Costa Rican Prosecutor's Office reportedly notified the family of Sergio Rojas of its decision to close the investigation. As indicated, although three suspects were identified, the evidence was reportedly not sufficient to charge them. In this regard, the United Nations urged the Government to continue with the investigation in accordance with the relevant standards.<sup>581</sup>

298. With respect to **indigenous peoples**, this year the IACHR continued to follow up on Precautionary Measure 321-12 and the actions implemented by the Costa Rican State to guarantee the life and personal integrity of the members of the Teribe and Bribri indigenous peoples in the province of Punta Arenas. As noted above, the IACHR is concerned about the continuation of acts of violence against members of these communities. In this regard, the IACHR urges the Costa Rican State to reinforce the comprehensive protection measures adopted in favor of indigenous leaders of the Salitre and Térraba territories. It also reiterates the importance of territory for the physical and cultural survival of indigenous peoples, and reiterates the statement by the Inter-American Court of Human Rights that the lack of effective identification, delimitation, and demarcation of indigenous lands by States can create a climate of permanent uncertainty, undermining social peace in the collective.<sup>582</sup>

299. For its part, the Costa Rican State informed the IACHR about a set of actions implemented to guarantee access to justice for the beneficiaries of Precautionary Measure 321-12, including: agreeing with the beneficiary indigenous persons on the actions to be taken to guarantee the life and personal safety of the members of the Teribe and Bribri de Salitre indigenous people; identifying and analyzing the relevant risks associated with the achievement of the institutional objectives and goals linked to the indigenous population, established in the Institutional Strategic Plan 2019/2024; including in institutional statistics indicators that specify judicial processes linked to indigenous people; and issuing circulars addressed to all members of the judiciary reiterating their

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<sup>578</sup> CEJIL, "Costa Rica: International organizations call for an end to violence and impunity in cases of defenders of indigenous peoples", October 5, 2020.

<sup>579</sup> IACHR, Press Release no. 57/20 One year after the murder of Sergio Rojas, the IACHR expresses concern about the situation of threats, harassment and violence against indigenous leaders and human rights defenders in Costa Rica, Washington, D.C., March 18, 2020.

<sup>580</sup> Ministry of Foreign Affairs and Worship, Republic of Costa Rica, "Gobierno de Costa Rica reitera su condena por el asesinato de líder indígena y los hechos de violencia en los territorios indígenas de Salitre y Térraba", March 20, 2020.

<sup>581</sup> United Nations, "ONU solicita continuar investigación y esclarecer homicidio del líder indígena Sergio Rojas", September 25, 2020.

<sup>582</sup> IACHR, Press Release, One year after the murder of Sergio Rojas, the IACHR expresses concern about the situation of threats, harassment, and violence against indigenous leaders and human rights defenders in Costa Rica. March 18, 2020.



duty to be guarantors of effective access to justice for indigenous peoples, non-discrimination, and elimination of barriers.<sup>583</sup>

300. Regarding the **rights of children and adolescents (NNA)**, the IACHR noted with concern the registration of more than 3,800 complaints related to sexual crimes against minors during 2020: a huge increase over the 1,800 complaints received in 2019.<sup>584</sup> The IACHR further notes that the National Children's Trust (PANI) reportedly enabled a platform to attend 24/7, throughout the country, to calls from or about children and adolescents who require immediate protection, due to imminent risk to their life and integrity. As a result of this measure and the opening of Immediate Attention Units (URAI) in Heredia and Puntarenas, between May and October 2020, complaints from **3,110** children and adolescents<sup>585</sup> were reportedly addressed.

301. Regarding the situation of **people of African descent and racial discrimination**, the Commission welcomes the document issued by the Ministry of Health on recommendations for the prevention of COVID-19 in the population of African descent, containing specific guidelines for the epidemiological treatment of the Afro-Costa Rican population, incorporating a differentiated ethnic-racial perspective.<sup>586</sup> The IACHR also welcomes the Costa Rican State's drive to advance the agenda on Afro-descendants and climate change. Representatives of the State talked with the Food and Agriculture Organization of the United Nations (FAO) on ways to address all forms of racism and its challenges in environmental settings.<sup>587</sup>

302. With regard to **women's rights**, the State reported on efforts made by the Criminal Defense Office to prevent and address violence against women. Specifically, the State highlighted the project called "Comprehensive approach to violence against women: construction of new masculinities in men subjected to criminal proceedings for violence against women" and the rapprochement between the Defense Office and women's organizations. The State also drew attention to the implementation, by the Public Prosecutor's Office, of a specialized course on the Law on Criminalization of Violence against Women and Sexual Crimes. On the other hand, the IACHR took note of complaints made by civil society organizations on the lack of parity in public office and the low representation of women in the political sphere, highlighting that only 9 of the 82 mayoralties nationwide were headed by women.<sup>588</sup> In addition, during 2020, at least 11 femicides were reported in the country.<sup>589</sup> In this regard, the State reported that during the pandemic, it has guaranteed emergency care services by INAMU and the 911 service for women affected by violence, as well as

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<sup>583</sup> Ministry of Foreign Affairs and Worship of Costa Rica. Note no. CROEA-OG-1157-20, October 2, 2020, p. 28. CROEA-OG-1157-20, October 2, 2020, p. 28.

<sup>584</sup> CRhoy, "[3800 minors reportedly victims of sex crimes during 2020](#)," November 3, 2020.

<sup>585</sup> PANI, "[Pani Brinda Atención De Emergencias 24/7 en todo el país](#)", November 1, 2020.

<sup>586</sup> Ministry of Health of Costa Rica, [Recomendaciones para la prevención del COVID-19 en población afrodescendiente](#), April 13, 2020.

<sup>587</sup> Prensa Latina, "[Costa Rica pushes agenda on Afro-descendants and climate change](#)," December 2, 2020

<sup>588</sup> El Mundo CR, "[Barely 9 women mayors elected](#)," February 3, 2020

<sup>589</sup> CR Observer, "[Costa Rica registers 11 femicides so far in 2020; 38 violent deaths of women in analysis](#)," October 26, 2020.



facilities for direct communication to the telephone number of the Women's Delegation and interaction through social networks aimed at preventing violence against women and girls.<sup>590</sup>

303. In relation to protection of the **elderly**, the IACHR learned of the strategy for the comprehensive care of the elderly announced on April 29, 2020. This strategy involved telephone follow-up and support services nationwide, for some 913,509 people over 60 years old, 76% of whom are between 60 and 79 years old, and 24% are over 80 years old.<sup>591</sup> The IACHR also acknowledges the signing of Law 9.857, which penalizes the abandonment of the elderly. This law establishes prison sentences for abandonment and negligence to the detriment of the elderly, ranging from one month to ten years in prison, depending on the degree of social, economic and health impairment suffered by the abandoned person. According to official information, it was signed by the President of Costa Rica in connection with commemoration of the National Day Against Abuse, Mistreatment, Marginalization, and Neglect of the Elderly and World Elder Abuse Awareness Day.<sup>592</sup>

304. With regard to **persons deprived of liberty**, the State informed the IACHR about the issuance of Circular 12-2018, "Guidelines for the implementation of Law 9161 that reduces the sentences of women in vulnerable conditions for introducing drugs into prisons," which establishes minimum guidelines for the care of women charged with and sentenced for introducing drugs into prisons.<sup>593</sup> In this regard, the IACHR welcomes the State's efforts to incorporate a gender perspective in the implementation of alternative measures for drug-related charges.<sup>594</sup>

## DOMINICA

- **General considerations**

305. In terms of **progress**, the IACHR highlights the measures taken to contain the spread of COVID-19, the intention to establish a national human rights institution, and efforts to promote political reform. The Commission also notes that the Immigration and Passport Law criminalizes human trafficking and that initiatives were taken to prevent child labor.

306. With respect to **challenges**, the Commission notes with deep concern that the country continues to criminalize same-sex relationships between adults and the persistence of legal provision for corporal punishment of children and adolescents. The Commission also notes the absence of legislation guaranteeing the rights of non-citizens, including refugees and asylum seekers; and notes that there has been no progress toward abolition of the death penalty in the country's legislation.

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<sup>590</sup> Ministry of Foreign Affairs and Worship of Costa Rica. Note no. CROEA-OG-1157-20, October 2, 2020, p. 11. CROEA-OG-1157-20, October 2, 2020, p. 11.

<sup>591</sup> Government of Costa Rica, "[Gobierno Lanza Estrategia Para Atención Integral De Persona Adulta Mayor Por Covid-19](#)", April 24, 2020.

<sup>592</sup> Government of Costa Rica, "[Costa Rica Firma Ley Que Penaliza El Abandono De Las Personas Adultas Mayores](#)", June 15, 2020.

<sup>593</sup> Ministry of Foreign Affairs and Worship of the Republic of Costa Rica, OAS IACHR Report: Costa Rica - Chapter IV A - IACHR Annual Report 2020. October 2, 2020.

<sup>594</sup> IACHR, [Report on measures aimed at reducing the use of pretrial detention in the Americas](#), OEA/Ser.L/V/II.163. Doc. 105, July 3, 2017.

307. The State did not respond to the request for information sent for the preparation of this chapter.

- **Specific topics**

308. With regard to the **COVID-19** pandemic, the IACHR notes that in Dominica, the first case was registered on March 22, and preventive actions were taken, such as restrictions on mobility through the imposition of curfews, the closure of educational establishments, a policy of restricted borders, and preventive social distancing. After several months of those measures, actions were taken for the gradual reactivation of the country's economic and social life, particularly through the promotion of tourism.<sup>595</sup> With regard to institutional follow-up, the IACHR has taken note of the response organized by the Ministry of Health and Welfare, as well as an economic assistance program for unemployed persons and dependents.<sup>596</sup>

309. Regarding the cross-cutting issue of **human rights institutions**, the Commission notes that in the framework of the Universal Periodic Review (UPR), the United Nations Human Rights Committee welcomed Dominica's intention to establish a national human rights institution that complies with the Paris Principles.<sup>597</sup> In this regard, the IACHR has highlighted the importance of having an independent body for the promotion and protection of human rights at the national level.

310. With regard to **democratic institutions**, the Commission has followed up on the electoral reform process in Dominica.<sup>598</sup> In this regard, the Commission learned that the Prime Minister had appointed a Commissioner to review the Constitution and propose recommendations regarding electoral reform.<sup>599</sup> However, information in the public domain indicates that the appointment of a Commissioner unilaterally by the Prime Minister would be contrary to the obligations of the Electoral Commission in this matter, under articles 51 and 56 of the Constitution of Dominica.<sup>600</sup> Additionally, the Prime Minister reportedly requested support from the OAS and the *Commonwealth* in the designation of two experts to work together with the Commissioner appointed on the electoral reform.<sup>601</sup> Finally, although a final report was expected to be presented in December 2020, as of the date of this annual report, it had not yet been delivered.<sup>602</sup> In this regard, the Commission recalls that representative democracy is a determining factor in the entire system of

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<sup>595</sup> Dominica News Online, "[Dominica participates in Caribbean Tourism Month](#)," December 16, 2020.

<sup>596</sup> Government of Dominica Portal, "[Covid-19 Response: Employee and Small Business Program](#)," June 18, 2020.

<sup>597</sup> OHCHR, [Human Rights Committee asks Dominica about the use of force against political opposition and the infringement on the right of peaceful assembly](#), 11 March 2020.

<sup>598</sup> IACHR, [Annual Report, Chapter IV.A Dominica](#), 2019, para. 235.

<sup>599</sup> Caribbean National Weekly, [Dominica Expects Report on Constitutional Reform by December](#), September 4, 2020.

<sup>600</sup> Dominica Patriot, [What is the constitutional or legal authority of PM Skerrit to appoint retired Caribbean Jurist Sir Charles M. Dennis Byron as sole election commissioner?](#), September 4, 2020. Dominica, [The Commonwealth of Dominica Constitution Order 1978](#), November 3, 1978.

<sup>601</sup> Dominica News on Line, [OAS and Commonwealth experts invited to assist with electoral reform – PM Skerrit](#), October 7, 2020.

<sup>602</sup> CNW, [Dominica Expects Report on Constitutional Reform by December](#), 4 September 2020.

which the Convention is a part, and constitutes a principle reaffirmed by the American States in the OAS Charter, a fundamental instrument of the inter-American system.<sup>603</sup>

311. In addition, the IACHR notes that Dominica's overall rule of law score decreased by less than 1% in this year's Index. Dominica dropped one position in the global rankings to 11th out of 30 countries in the Latin America and Caribbean region.<sup>604</sup>

312. With respect to **children and adolescents**, the IACHR notes with deep concern that there has been no progress with prohibiting corporal punishment of children in Dominica. According to the Global Initiative to End All Corporal Punishment of Children, this punishment is still permitted: (i) in the home, in alternative care settings, in day care centers, and in schools under the provisions of the Children and Young Persons Act 1970 and the Education Act; (ii) in penal institutions (under the Prisons Act 1877 and the Prisons Regulations 1956); and (iii) for the commission of an offense (under the Punishment of Young Offenders Act 1881, the Corporal Punishment Act 1987, the Magistrates' Procedure Code 1961 and the Offences Against the Person Act 1873).<sup>605</sup>

313. In this regard, the Committee welcomes the Child Friendly Schools initiative discussed by the Directorate of Education. According to available information, this initiative focuses on alternative measures that could result in the gradual elimination of corporal punishment used in school.<sup>606</sup> In addition, the Directorate emphasized that the Ministry of Education had observed a decrease in the use of corporal punishment in schools as a result of the implementation of alternative disciplinary measures.<sup>607</sup> In this regard, the Commission stresses the importance of incorporating a comprehensive approach to children's rights in the design of public policies, with special emphasis on the eradication of corporal punishment. In addition, the IACHR stresses the need to promote the adoption of alternative, participatory, positive, and non-violent disciplinary measures at all levels of society, in such a way that the human dignity of children and adolescents is respected.<sup>608</sup>

314. Regarding the rights of **lesbian, gay, bisexual, trans, gender diverse and intersex (LGBTI) persons**, the Commission notes with concern that Dominica is one of the States in the region that continues to criminalize sexual relations between adults of the same sex, with sentences of up to ten years and the possibility of internment in psychiatric institutions to subject sentenced persons to treatment.<sup>609</sup>

315. Regarding the **rights of persons in human mobility**, the IACHR notes the observations made by the United Nations Human Rights Committee regarding the absence of

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<sup>603</sup> I/A Court H.R., Case of Yatama v. Nicaragua. Case of Yatama v. Nicaragua. Preliminary Objections, Merits, Reparations and Costs. Judgment of June 23, 2005. Series C No. 127, par. 192.

<sup>604</sup> World Justice Project, WJP Rule of Law Index 2020 performance, 2020. p.1

<sup>605</sup> Global Initiative to End All Corporal Punishment of Children, Country Report for Dominica, December 2019.

<sup>606</sup> Government Information Service, Ministry of Education Discusses Future of Corporal Punishment, December 15, 2020.

<sup>607</sup> Government Information Service, Ministry of Education Discusses Future of Corporal Punishment, December 15, 2020.

<sup>608</sup> IACHR, Report on Corporal Punishment and the Human Rights of Children and Adolescents, OEA/Ser.L/V/II.135 Doc. 14, August 5, 2009, par. 119.3.

<sup>609</sup> Sexual Crimes Act 1998, Section 15 (Sodomy); 76 Crimes, Dominica might not appeal if sodomy law is overturned, March 12, 2020; 76 Crimes, Dominica: Churches again use delay tactics to defend anti-sodomy law, September 17, 2020.

legislation guaranteeing the rights of non-citizens, including refugees and asylum seekers. In addition, the Committee noted that there is no information available on the number of asylum seekers, refugees and stateless persons in the country. Finally, it indicated that Dominica has not yet ratified the 1954 Convention relating to the Status of Stateless Persons or the 1961<sup>610</sup> Convention on the Reduction of Statelessness.

316. With regard to **trafficking in persons**, the IACHR notes that in the framework of the country review, the United Nations Human Rights Committee highlighted the creation of the Migration and Passport Decree as a measure to combat trafficking in persons and transnational organized crime.<sup>611</sup> Likewise, within the framework of actions taken to combat child labor, the Committee welcomed the increase in the number of labor inspectors.<sup>612</sup> Despite the adoption of these measures, the issues of child labor and sexual exploitation of children and adolescents continue to be of concern.<sup>613</sup>

317. Regarding the **death penalty**, the IACHR notes that no progress has been made in removing the death penalty from the statutory books, although there have been no executions since 1986 and no one has been sentenced to death since then.<sup>614</sup> The Commission further notes that, as of October 2020, no one has been sentenced to death by the State.<sup>615</sup> The IACHR recalls that States must take steps to abolish the death penalty.

## ECUADOR

- **General Considerations**

318. During 2020, the Commission took note of the **progress made in the** strengthening of human rights institutions, regulatory developments on the rights of the elderly and persons with disabilities, some measures against discrimination against LGBTI persons, as well as the ratification of the Inter-American Convention against Racism, Racial Discrimination and Related Intolerance.

319. On the other hand, the IACHR underscores the persistence of challenges in terms of democratic institutionality in relation to several disputes over the registration of candidacies for the February 2021 elections, as well as the environmental and health impacts arising from extractive industries in indigenous peoples' territories, such as the oil spill that occurred in April 2020.

320. On October 9, 2020 and December 15, 2020, the State submitted responses to the request for information sent for the preparation of this chapter.

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<sup>610</sup> Human Rights Committee, Concluding observations in the absence of Dominica's initial report. CCPR/C/DMA/COAR/1, 24 April 2020, par. 37.

<sup>611</sup> United Nations Human Rights Committee, Human Rights Committee asks Dominica about the use of force against political opposition and the infringement on the right of peaceful assembly, 11 March 2020.

<sup>612</sup> United Nations Human Rights Committee, Human Rights Committee asks Dominica about the use of force against political opposition and the infringement on the right of peaceful assembly, 11 March 2020.

<sup>613</sup> United Nations Human Rights Committee, Human Rights Committee asks Dominica about the use of force against political opposition and the infringement on the right of peaceful assembly, 11 March 2020.

<sup>614</sup> Amnesty International, Global Report: Death Sentences and Executions, April 2020, p.14.

<sup>615</sup> Meeting with the Death Penalty Project on October 27, 2020.

- **Specific topics**

321. With respect to the COVID-19 pandemic, the IACHR highlights the measures adopted to contain the spread of the virus. In Ecuador, the first case was registered on February 29 and preventive actions were adopted, such as a state of emergency for public calamity and several mandatory measures were issued, such as curfews, closure of educational establishments, partial closure of borders, and preventive isolation.<sup>616</sup> After several months of these measures, actions were taken for the gradual reactivation of the economic and social life of the country. The Executive Power activated the National Emergency Operations Committee (COE) in charge of planning, coordinating, monitoring, and controlling the response operations between the different levels of government and the functions of the institutions in the face of the declared sanitary emergency.<sup>617</sup> This resulted in the adoption of public health measures such as plans, programs, protocols, and projects aimed at protecting the population.<sup>618</sup>

322. The IACHR expressed its dismay over the difficulties reported in the city of Guayaquil regarding the transfer, cremation, and burial of the bodies of persons who died during the COVID-19 pandemic<sup>619</sup> and the disappearance of corpses. The IACHR took note of the development of a protocol for handling corpses, as well as investigations by the Prosecutor General's Office and court orders in relation to the search for missing bodies that resulted in the identification and delivery of remains of persons who died from COVID-19 to their families.<sup>620</sup>

323. With regard to **human rights institutions**, the IACHR has taken note of the restructuring of the Secretariat for Human Rights to address specific issues such as violence against women, children and adolescents, and the rights of Nationalities and Peoples.<sup>621</sup> Also noteworthy is the approval by the 22 state institutions of the Comprehensive National System to Prevent and Eradicate Violence against Women and the <sup>622</sup> System's Management Model.

324. With regard to **democratic institutions**, the IACHR learned of several contentious proceedings related to the registration process for candidates and political parties for the February 7, 2021 presidential elections.<sup>623</sup> In this regard, the Commission underscores that the National Electoral Council (CNE) was the subject of complaints before the Electoral Disputes Tribunal (TCE) for the suspension of political organizations and accusations that political persecution was taking place.<sup>624</sup> In

<sup>616</sup> Note containing the State's response to the request for information. Art. 41 of the IACHR.

<sup>617</sup> Note of response to request for information. Art. 41 letter on measures taken to contain the pandemic.

<sup>618</sup> Vice-Ministry of Governance and Health Surveillance. Ministry of Public Health of Ecuador. June 1, 2020. P.1-3:

<https://almacenamiento.msp.gob.ec/index.php/s/5ewZdPrxy82Ql1h#pdfviewer>

<sup>619</sup> IACHR, Tweet, April 2, 2020. <https://twitter.com/cidh/status/1245906801784168448?lang=en>  
<https://twitter.com/cidh/status/1245906801784168448?lang=en>

<sup>620</sup> IACHR, Tweet, July 16, 2020. <https://twitter.com/cidh/status/1283910224999583747>  
<https://twitter.com/cidh/status/1283910224999583747>

<sup>621</sup> Note of response to the request for information. Letter Art. 41.

<sup>622</sup> Note of response to the request for information. Letter Art. 41

<sup>623</sup> DW, [Ecuador Electoral Council suspends party supporting Correa](#), July 7, 2020. Expreso, [EDT orders registration of Alvaro Noboa's candidacy](#), Dec. 9, 2020. Expreso, [New court ruling leaves Alvaro Noboa off presidential ballot](#), Dec. 27, 2020.

<sup>624</sup> DW, [Ecuador Electoral Council suspends party supporting Correa](#), July 7, 2020. VOA, [Ecuador: Correa conviction upheld and party suspended for elections](#), July 22, 2020.

response to a request for information from the IACHR, the State reported on the measures subsequently adopted by the CNE to comply with the ECC's decision regarding the conduct of internal processes for the designation of political party candidacies and their registration for the presidential elections.<sup>625</sup>

325. With regard to **citizen security**, the IACHR received information on the excessive use of the state of emergency initially declared in March 2020 in response to the COVID-19 pandemic. In connection with those measures, there were complaints about the use of the armed forces to control the limitation of traffic and assembly rights. The state of emergency was extended for several months exceeding the maximum of 90 days provided for in the Constitution and even though the Constitutional Court ordered the State to adopt protective measures in response to the pandemic that do not result in the suspension of rights or the mobilization of the armed forces.<sup>626</sup>

326. In relation to **access to justice**, it was reported that, in response to the health emergency caused by the COVID-19 pandemic, the Judiciary Council ordered in March 2020 the suspension of the exercise of judicial guarantees suits, except for *habeas corpus*. This reportedly resulted in a decrease in the receipt and processing of legal actions by the courts, which could impact access to justice for persons seeking protection of their rights in the first months of the pandemic.<sup>627</sup> In this regard, the Commission takes note of the subsequent decision of the Constitutional Court, which required the Judiciary Council not to restrict access to constitutional justice in the context of the health emergency and that judges should continue to hear and process judicial guarantees cases.<sup>628</sup>

327. The IACHR also received information on obstacles, procrastination, and delays in the resolution and enforcement of legal actions for the protection of the human rights of indigenous peoples. This included allegations of interference by state authorities that hindered compliance with precautionary measures granted by the national justice system ordering different entities to implement health care measures to protect the lives of members of the Waorani<sup>629</sup> people. Likewise, delays were reported in resolving the protection suits filed on behalf of the indigenous communities affected by the oil spill that occurred on April 17, 2020 in the Ecuadorian Amazon due to the fact that a judge was disqualified due to COVID-19 infection.<sup>630</sup>

328. In relation to **memory, truth, and justice**, the Ombudsperson's Office reported on progress in recent years with respect to immaterial reparation for serious human rights violations and crimes against humanity that occurred in the country between October 4, 1983 and December 31,

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<sup>625</sup> Note of response to the request for information. Letter Art. 41 of December 15, 2020 regarding compliance with resolutions of the Contentious Electoral Tribunal, related to the registration of Mr. Alvaro Noboa as presidential candidate.

<sup>626</sup> Meeting with Civil Society: Violation of human rights and ESCR in the context of the COVID-19 pandemic, Ecuador. July 13, 2020. 176th Session. GK, [Constitutional Court Declares Current State of Emergency Unconstitutional](#), January 2, 2021.

<sup>627</sup> Meeting with Civil Society: Violation of human rights and ESCR in the context of the COVID-19 pandemic, Ecuador. July 13, 2020. 176th Session.

<sup>628</sup> [Expreso, La CC exige a la Judicatura que garantice el acceso a la justicia constitucional](#), April 30, 2020.

<sup>629</sup> Meeting with Civil Society: Violation of human rights and ESCR in the context of the COVID-19 pandemic, Ecuador. July 13, 2020. 176th Session. La Vanguardia, [Otoranis de Ecuador](#). June 18, 2020.

<sup>630</sup> Meeting with Civil Society: Violation of human rights and ESCR in the context of the COVID-19 pandemic, Ecuador. July 13, 2020. 176th Session.

2008.<sup>631</sup> The Ombudsperson's Office indicated that 1,045 persons are enrolled in the Victim Reparation Program and that 301 Immaterial Reparation Agreements have been signed, which have been sent to the former Ministry of Justice, Human Rights, and Worship for the material compensation process.<sup>632</sup> Likewise, the Ombudsperson's Office forwarded information provided by the Attorney General's Office indicating that 18 cases of serious violations related to this context had been prosecuted so far. Despite this, the National Committee of Victims, civil society, and victims' organizations have demanded greater speed in the proceedings, considering that, ten years after the presentation of the Truth Commission Report, only two final judgments had been handed down.<sup>633</sup>

329. Regarding the **rights of the elderly**, the Commission highlights the approval of the General Regulations of the Organic Law of the Elderly,<sup>634</sup> which establishes the guidelines, directives, and rules for enforcement of the Organic Law of the Elderly and for the operation, control and follow-up of the Specialized National System for the Integral Protection of the Rights of the Elderly, as well as the establishment of mechanisms for prevention, attention, protection, restitution, and reparation.

330. On the situation of **people of African descent and against racial discrimination**, the IACHR welcomes the ratification of the OAS Inter-American Convention against Racism, Racial Discrimination and Related Forms of Intolerance by the Ecuadorian State on January 14, 2020.<sup>635</sup> The Commission welcomes these institutional efforts and emphasizes that the ratification of inter-American instruments is a sign of commitment to the prevention and eradication of racial discrimination in the region.

331. With respect to **persons with disabilities**, the Commission welcomes the preparation of the "Guide on sexual and reproductive rights and a life free of violence for persons with disabilities," prepared by the National Council for the Equality of Disabilities (CONADIS) and the United Nations Population Fund (UNFPA).<sup>636</sup> The State also reported that CONADIS prepared the "Guide for the Prevention and Care of Covid-19 Infection for Persons with Disabilities and Persons with Temporary Disabilities and their Families" and the "Guide for Inclusive Risk Management with a Focus on Persons with Disabilities," which seek, respectively, to provide information about and prevent the COVID-19 pandemic and to promote the participation of persons with disabilities in the development of public policies.<sup>637</sup> The IACHR also took note of the ongoing inequities faced by persons with disabilities in the country and of the difficulties they face to access education and work, as well as

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<sup>631</sup> Office of the Ombudsperson of Ecuador, REPORT: Directorate of the Mechanism for the Protection of Disappeared Persons and Reparation of Victims Documented by the Truth Commission, of the Ombudsperson's Office of Ecuador, 2020 (on file with IACHR).

<sup>632</sup> Office of the Ombudsperson of Ecuador, REPORT: Directorate of the Mechanism for the Protection of Disappeared Persons and Reparation of Victims Documented by the Truth Commission, of the Ombudsperson's Office of Ecuador, 2020, pp. 7 and 20. On file with the IACHR.

<sup>633</sup> INRED, Manifiesto a 10 años del informe de la Comisión de la Verdad en Ecuador, presented at the Plaza de la Memoria, June 8, 2020.

<sup>634</sup> Executive Decree 1087, "Reglamento General Ley Orgánica de las Personas Adultas Mayores", July 8, 2020.

<sup>635</sup> OAS, State of Signatures and Ratifications, Inter-American Convention against Racism, Racial Discrimination and Related Intolerance, Inter-American Convention Against Racism, Racial Discrimination and Related Intolerance.

<sup>636</sup> CONADIS - UNFPA. Guide on sexual and reproductive rights and life free of violence for persons with disabilities.

<sup>637</sup> Inputs from the State of Ecuador for Chapter IV of the 2020 IACHR Annual Report, October 9, 2020, pp. 16-18.



health care due to the lack of sign language interpreters in hospitals and other appropriate measures to enable them to communicate with medical personnel.<sup>638</sup>

332. On the rights of **lesbian, gay, bisexual, trans, gender diverse and intersex (LGBTI) persons**, the Commission welcomes the decision by the National Electoral Council (CNE) to appoint members of the electoral board based on the gender with which all persons, including trans persons, identify.<sup>639</sup> On the other hand, the Commission takes note of the vetoing of the Health Code which, among other things, would prohibit so-called conversion therapies.<sup>640</sup> Finally, the Commission notes with concern reports of discrimination and violence against trans and gender non-conforming persons, especially trans women<sup>641</sup> sex workers.

333. Regarding the **rights of indigenous peoples**, the IACHR received information on the impacts of the COVID-19 pandemic, in particular, the lack of medical care, limited access to biosecurity, delays in the State's response, and the lack of consultation and consent regarding the pandemic prevention and mitigation policies and the health care protocols developed by the State. In the case of indigenous peoples in cross-border areas, this situation is compounded by the militarization by the State, which prevented solidarity aid activities between indigenous peoples divided by borders, as well as the risk generated by the presence of irregular armed actors.<sup>642</sup> Additionally, the Commission was informed about the impacts of extractive activities in indigenous territories despite the restrictions ordered due to the pandemic and about the consequences of the massive oil spill that occurred on April 17, 2020, which contaminated the Coca and Napo rivers in the provinces of Orellana and Sucumbíos. According to the information received, the impacts of the spill would affect the health of approximately 120,000 people, of whom 27,000 were Kichwa and Shuar indigenous people. Additionally, the water contamination reportedly caused health problems and problems of access to water and traditional food derived from fishing.<sup>643</sup>

334. The IACHR was also informed of statements by State authorities regarding the promulgation by means of an executive decree of a regulation for the prior and informed consultation of indigenous peoples in the case of mining activities.<sup>644</sup> It was, however, also told that the proposed

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<sup>638</sup> El universo, Ecuador: en discapacidad, derechos se cumplen de forma parcial, December 3, 2020. Primicias, La discapacidad, otros invisibles y doloroso drama frente de la pandemia en Ecuador, May 30, 2020. El Mercurio, La pandemia acrecienta las barreras para personas con discapacidad, June 8, 2020.

<sup>639</sup> El Comercio, El CNE offers apologies to the transpopulation and assigns the electoral board according to their gender, September 12, 2020.

<sup>640</sup> El Comercio, Conozca las faltas leves, graves y muy graves que se contemplan en el Código de Salud, aprobado en Ecuador, 27 August 2020; Asociación Silueta X, Sobre los casos de reasignación sexual en la niñez y adolescencia trans y las clínicas de tortura o conversión, 31 August 2020; La República EC, Moreno veto en su totalidad nuevo Código de Salud, 25 September 2020; Notimerica, Ecuador.- UN experts see "a missed opportunity" in Ecuador's government veto of new Health Code, 21 October 2020.

<sup>641</sup> Ecuadorian LGBT Federation, Transwoman is brutally murdered in Ecuador (Transfemicide), October 6, 2020; Asociación Silueta X, Rechazo a Red de Extorsión o Explotación Sexual, October 26, 2020; Vistazo, Transsexual woman denounces physical aggression in Babahoyo, November 9, 2020; Asociación Silueta X, Mujeres trans trabajadoras Sexuales son agredidas por la Policía Nacional sin aparente causa, December 4, 2020; La Hora, Trans woman is raped and abandoned on a highway, December 24, 2020.

<sup>642</sup> IACHR, Hearing - Human and Collective Rights Violations against Indigenous Peoples in Ecuador, 177th Period of Sessions, October 6, 2020.

<sup>643</sup> IACHR, Hearing - Human and Collective Rights Violations against Indigenous Peoples in Ecuador, 177th Period of Sessions, October 6, 2020.

<sup>644</sup> Primicias, Minas talks about new regulation so that there will be no "abuses or vividness", May 12, 2020.

regulation does not comply with international consultation standards and had not been consulted with indigenous peoples.<sup>645</sup>

335. Regarding the rights of **children and adolescents**, the IACHR notes with satisfaction that the State expanded educational coverage for Venezuelan migrant children and adolescents. According to available information, the number of Venezuelan children and adolescents enrolled in schools in Ecuador increased from 33,803 in 2019 to 49,967 in 2020, an increase of more than 47%.<sup>646</sup> On the other hand, the IACHR notes with concern that one in five children in Ecuador faces chronic malnutrition, as reported by the State at the Regional Conference of the Food and Agriculture Organization<sup>647</sup> of the United Nations, a situation probably exacerbated by the multidimensional poverty that affects more than 3 million children and adolescents in Ecuador, according to studies by UNICEF.<sup>648</sup>

336. Regarding the rights of **persons deprived of liberty**, the State informed the IACHR about the actions taken in connection with COVID-19 to prevent contagion among this population,<sup>649</sup> including awareness campaigns, ensuring proper hygiene in food services, and the provision of sanitary materials.<sup>650</sup> Likewise, the State reported on Executive Decree No. 1086, of June 26, 2020, through which 66 commutative pardons were granted in favor of persons deprived of liberty who pertain to priority care and especially vulnerable groups.<sup>651</sup> Meanwhile, according to information provided by civil society, persons deprived of liberty are still at high risk of contagion, and there is no health protection policy for them.<sup>652</sup>

337. Regarding the **rights of persons in human mobility**, the State reported on: i) the Contingency Plan for Admissibility, which has allowed 41,899 applications for refugee status in Ecuador, and ii) the Contingency Plan of the Refugee and Statelessness Commission, which, by May 31, 2020, had generated a total of 24,934 resolutions.. Additionally, it noted that a Contingency Plan for eligibility interviews, assignment of shifts, and notification was implemented as a response to the current health emergency.<sup>653</sup> For its part, the Commission noted with concern: i) the finalization of the application process for the Exceptional Temporary Residency Visa for Humanitarian Reasons

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<sup>645</sup> IACHR, [Hearing - Human and Collective Rights Violations against Indigenous Peoples in Ecuador](#), 177th Period of Sessions, October 6, 2020.

<sup>646</sup> El Mercurio, [Las luchas de niños y jóvenes venezolanos para acceder a clases en Ecuador](#), September 27, 2020.

<sup>647</sup> Infobae, [Ecuador: 2nd highest regional child malnutrition rate](#), October 20, 2020.

<sup>648</sup> TeleSUR, [UNICEF warns of poverty risk for Ecuadorian children](#), October 22, 2020.

<sup>649</sup> Response on the situation of rights of persons deprived of liberty in the Regional Social Rehabilitation Center (CRS) Sierra Centro Norte Cotopaxi.

<sup>650</sup> Ministry of Foreign Affairs and Human Mobility. Human rights in Ecuador. Progress up to September 2020. October 9, 2020.

<sup>651</sup> Response on the situation of rights of persons deprived of liberty in the Regional Social Rehabilitation Center (CRS) Sierra Centro Norte Cotopaxi. July 21, 2020.

<sup>652</sup> CEDHUS, CEDHUS denounces danger of coronavirus infection in prisons in Ecuador. April 24, 2020. IACHR Archive.

<sup>653</sup> Ministry of Foreign Affairs and Human Mobility, Ecuador, Derechos Humanos en el Ecuador, avances hasta septiembre 2020 Insumos para informe anual CIDH - Documento referencial, par. 163.

(VERHU) in August 2020, which reportedly benefited 38,246 Venezuelans<sup>654</sup>; and ii) the imposition of migration controls for street sellers of Venezuelan origin.<sup>655</sup>

## EL SALVADOR

- **General considerations**

338. The IACHR welcomes some **advances** in human rights in El Salvador during the year 2020, including, notably, the approval of the Special Law for the attention and integral protection of persons in conditions of forced internal displacement and a decrease in homicide rates. The IACHR takes note of some of the measures adopted by the State to contain the spread of the COVID-19 virus, such as the swift declaration of the Sanitary Emergency, the establishment of mandatory preventive isolation, the suspension of payments for essential services, and the granting of additional economic assistance.

339. As regards ongoing **challenges**, the IACHR reinforces the importance of respecting democratic institutions in the country. The worsening of acts of violence committed against women and girls and the situation of persons deprived of liberty are of concern; the IACHR also highlights the complaints received regarding human rights violations committed in the context of the mandatory quarantines to contain Covid-19.

340. The State did not respond to the request for information sent for the preparation of this chapter.

- **Specific topics**

341. Regarding the outbreak of the **COVID-19** pandemic, the IACHR learned that, as of January 23, the first preventive measures were adopted, such as the declaration of a Health Emergency<sup>656</sup> and that the first case in the country was recorded on March 18. In this regard, the IACHR highlights the declaration of the State of National Emergency on March 14 and the adoption of a series of measures, such as the closure of educational establishments, the mandatory preventive isolation of persons entering the country, and restrictions on the movement of persons in its territory.<sup>657</sup> It also took note of the adoption of measures to mitigate the economic impact of the pandemic, such as the payment of economic aid to persons affected by the crisis and the prevention of the suspension of water, electricity, and communications services for three months.<sup>658</sup> The IACHR also notes that the Executive Branch issued decrees prohibiting the entry of non-resident diplomats or foreigners<sup>659</sup> and established that persons who failed to comply with the mandatory home

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<sup>654</sup> Agencia EFE, [Ecuador: Humanitarian visa process for Venezuelans ends on August 13](#), July 28, 2020. See also: El periódico, [Venezuelan immigrants in Ecuador ask for extension for humanitarian visa](#), August 12, 2020. El comercio, [Ecuador gave 38,246 humanitarian visas to Venezuelan citizens; 26,000 applications will still be processed](#), August 14, 2020.

<sup>655</sup> Primicias, [Xenophobic discourse drives Venezuelans away from the streets of Quito](#), February 6, 2020.

<sup>656</sup> Official Gazette, [Ministerial Agreement No. 301](#), January 23, 2020, p. 43.

<sup>657</sup> Diario Oficial, [Executive Decree No. 12 of the Presidency of the Republic](#), March 11, 2020, pp. 10-11; Diario Oficial, [Legislative Decree No. 593](#), March 14, 2020; Diario Oficial, [Legislative Decree No. 593](#), March 14, 2020, pp. 2-3.

<sup>658</sup> BBC, [Coronavirus in El Salvador: Bukele's ambitious plan to bolster country's covid-threatened economy-19](#), March 24, 2020.

<sup>659</sup> Official Gazette, [Executive Decree No. 13 of the Presidency of the Republic](#), March 11, 2020, p. 15.

quarantine "without proper justification" would be taken by public security authorities to pandemic containment centers.<sup>660</sup>

342. On March 26, the Constitutional Chamber of the Supreme Court of Justice ruled that all persons still deprived of their liberty since March 21 in police or administrative facilities other than a quarantine site, based on Executive Decree No. 12, should be immediately taken to their homes or places of residence to comply with home quarantine,<sup>661</sup> a resolution that was welcomed by the IACHR. In a follow-up order to that Habeas Corpus, the Chamber reiterated the exhortation to the Ministry of Health and the Legislative Assembly to urgently regulate the measures limiting physical freedom derived from the serious emergency situation caused by the COVID-19 pandemic.<sup>662</sup> After several months of those measures, the Commission notes that most of the containment centers were closed<sup>663</sup> and actions were taken to gradually reactivate the economic and social life of the country.<sup>664</sup> In this regard, the IACHR notes that on December 23, the Constitutional Chamber issued a resolution reiterating the constitutionality of the "Special Transitory Law to Contain the Covid-19 Pandemic" that had been approved by the Legislative Assembly in October and vetoed by the Executive Branch.<sup>665</sup>

343. Despite this, the IACHR highlights information provided by the civil society organization Amnesty International indicating that, between March and June, the authorities in El Salvador published more than 80 decrees in response to the COVID-19 pandemic and that the Constitutional Chamber subsequently declared that at least 11 of them were unconstitutional.<sup>666</sup> Likewise, the Commission received with concern information indicating that, as of August 28, 16,780 persons had been quarantined in State custody as a result of a variety of situations: the violation of mandatory national confinement, the return of Salvadoran persons from abroad, the deportation of persons from the United States and Mexico, and alleged contact with COVID-19 patients.<sup>667</sup> In this regard, civil society organizations and the Human Rights Ombudsperson's Office (PDDH) indicated that, in this context, the Police and the Army had illegally detained and violated the personal integrity of many people.<sup>668</sup> Likewise, the PDDH said it had received hundreds of complaints about conditions in the quarantine centers, about the lack of information from the authorities in charge of these

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<sup>660</sup> Official Gazette, Executive Decree No. 21 of the Presidency of the Republic, March 21, 2020, p. 7.

<sup>661</sup> Constitutional Chamber. Habeas Corpus 148-2020, March 26, 2020.

<sup>662</sup> Constitutional Chamber. Habeas Corpus 148-2020, April 8, 2020, p. 5.

<sup>663</sup> Amnesty International, When Protection Becomes Repression: Mandatory Quarantines during COVID-19 in the Americas, September 2020, p. 42.

<sup>664</sup> Arpas, Reapertura económica: el regreso a la "normalidad" en El Salvador, August 25, 2020.

<sup>665</sup> Asamblea Legislativa, Asamblea aprueba Ley Especial Transitoria para contener la pandemia, December 29, 2020.

<sup>666</sup> Amnesty International, When Protection Becomes Repression: Mandatory Quarantines during COVID-19 in the Americas, September 2020, p. 35.

<sup>667</sup> Amnesty International, When Protection Becomes Repression: Mandatory Quarantines during COVID-19 in the Americas, September 2020, p. 20.

<sup>668</sup> IDHUCA, Informe sobre la situación de los derechos humanos en el marco de la emergencia por Covid-19: marzo-agosto del 2020, 2020; HRW, El Salvador: Abusos Policiales en la Respuesta a la Covid-19, April 15, 2020; El Faro, PDDH constata "tratos crueles e inhumanos" contra los detenidos en la cuarentena, April 24, 2020.

centers, and about people who had been detained for more than 30 days even without a COVID-19 diagnosis.<sup>669</sup>

344. As regards **democratic institutional**ity, the Commission highlights the events that took place in February 2020 following the summoning by the Executive Branch<sup>670</sup> of an extraordinary legislative session. According to public information, the presidency of the Legislative Assembly convened a session for the night of February 8, to comply with the request by the Executive. However, due to the lack of the required parliamentary quorum, a new call was issued to meet the following day. The IACHR learned that, throughout February 8, dozens of soldiers were stationed around the Legislative Branch headquarters and media access to the premises was restricted.<sup>671</sup> In addition, the IACHR was alarmed to learn that, on the afternoon of the 9th, the head of the Executive Branch had entered the Legislative Assembly escorted by multiple armed military and police personnel.<sup>672</sup>

345. The IACHR has received criticism of the episode from authorities and civil society organizations as a serious attack on the separation of Salvadoran branches of government<sup>673</sup>. In this regard, the IACHR urged the State to resolve the crisis peacefully and respect the separation of powers and the Constitution. It also stressed the importance of dialogue, respect for institutions, and the rule of law as fundamental conditions for international human rights obligations. The IACHR takes note that the Legislative Assembly constituted a special commission to investigate the intervention and that it reportedly issued its final report with its findings and recommendations on December 17.<sup>674</sup>

346. With respect to the cross-cutting issue of **human rights institutions**, the Commission highlights the creation of the National Council for the Inclusion of Persons with Disabilities as the governing body of the National Policy for the Inclusion of Persons with Disabilities and all measures and actions aimed at the fulfillment of their rights.<sup>675</sup>

347. In terms of **citizen security**, the IACHR appreciates the significant (45%) reduction in the number of homicides in 2020 compared to 2019. According to data from the National Civil Police, 1,322 homicides were reported, which is 1,076 fewer than those that occurred the previous year.<sup>676</sup>

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<sup>669</sup> PDDH, [Reporte de casos atendidos durante emergencia nacional por COVID 19](#), April 20, 2020; PDDH, [Informe Preliminar sobre COVID-19 y derechos humanos en El Salvador](#), June 2020.

<sup>670</sup> La Prensa Gráfica, [Persiste tensión al fallar plenaria: presidente de Asamblea pide compás de espera](#), February 9, 2020, [Bukeledice que Dios le pidió "paciencia": tras militarizar Asamblea, presidente le da una semana para aprobar préstamo o convocará de nuevo](#), February 9, 2020.

<sup>671</sup> FUSADES, [Análisis situacional de El Salvador ante crisis de Gobernabilidad](#), February 2020; [Diario El Mundo, Director de PNC pide "disculpas" tras denuncia de agresión a equipo periodístico](#), February 9, 2020.

<sup>672</sup> El Faro, [El día que el comandante en jefe militarizó la Asamblea Legislativa](#), February 10, 2020;

<sup>673</sup> Asamblea Legislativa, [Asamblea Legislativa condena la irrupción y toma militarizada de las instalaciones del Congreso](#), February 10, 2020; PDDH, [Pronunciamiento Del Procurador Para La Defensa De Derechos Humanos, José Apolonio Tobar Serrano, Ante Los Recientes Hechos Políticos](#), February 8, 2020; Noticias UCA, [Ante las tensiones entre el Ejecutivo y la Asamblea Legislativa](#), February 8, 2020; ; Amnesty International, [El Salvador: Deployment of security forces in Legislative Assembly should alert on future of human rights](#), February 9, 2020; WOLA, [Political crisis in El Salvador must be resolved through dialogue, not power plays and military deployments](#), February 10, 2020.

<sup>674</sup> La Prensa Gráfica, [Militarization of the Assembly | The special commission that investigated 9F](#), February 9, 2021.

<sup>675</sup> Legislative Assembly, [Legislative Decree No. 672](#), June 22, 2020.

<sup>676</sup> Presidency of the Republic, [El Salvador closes 2020 with 1,076 fewer homicides than last year](#), January 1, 2020.

The State has attributed the drop to the Territorial Oversight Plan, in effect since June 2019.<sup>677</sup> However, civil society organizations pointed to the pandemic as a relevant factor, when it comes to analyzing these data.<sup>678</sup> Additionally, the IACHR has learned of a high number of missing persons reported by the Attorney General's Office: 2,251 as of December 21, 2020.<sup>679</sup>

348. Likewise, in a hearing before the IACHR, civil society organizations criticized the fact that only 3 of the 7 phases of the Territorial Oversight Plan have been made public, 18 months after its implementation.<sup>680</sup> In addition, they denounced the repressive approach adopted in the Plan and expressed their concern about increasing militarization as a strategy for citizen security. In this regard, they pointed out that, in February 2020, 1,400 more military personnel were reportedly assigned to those tasks, taking the total to 9,000.<sup>681</sup> On the other hand, the State informed that it has made investments focusing on personnel and modernization of the infrastructure of the National Civil Police.<sup>682</sup>

349. Regarding the situation of **persons deprived of liberty**, the IACHR remains concerned about the high levels of overcrowding and deplorable conditions in prisons, allegedly as a result of the excessive use of pretrial detention, the tightening of security policies, and the absence of alternatives to incarceration. According to official information, as of December 28, 2020, the Penitentiary System had a population deprived of liberty of 37,190 persons (34,401 men and 2,789 women),<sup>683</sup> 9,088 of whom (24.44%) are in pretrial detention.<sup>684</sup> These figures do not take into account the large number of people detained in the "bartolinas" (police cells), some of whom are being prosecuted or remanded in custody, for periods exceeding those established by law, and under conditions incompatible with international human rights law.

350. On the other hand, in the period under review, the IACHR voiced its concern about the alleged continued use of extraordinary emergency measures to combat crimes planned from inside prisons. In particular, the IACHR highlighted the maximum emergency decreed by the Executive, on April 25, 2020, in centers holding inmates belonging to criminal organizations. The Executive Power ordered total lockdown for 24 hours a day, the solitary confinement of the leaders of criminal organizations, the cessation of all communication with the detainees, and the suspension of any activity, among other actions.<sup>685</sup> Likewise, the Vice-Minister of Justice and General Director of

<sup>677</sup> Government of El Salvador, Salvadorans consider that crime is no longer a serious problem in the country thanks to the government's implementation of the Territorial Oversight Plan, December 21, 2020; DW, El Salvador recorded fewer homicides in 2020, January 2, 2021.

<sup>678</sup> Prensa Latina, Reportan disminución de los homicidios en El Salvador, January 2, 2020.

<sup>679</sup> El Salvador.com, Fiscalía registra 2,251 personas desaparecidas en 2020, January 9, 2021.

<sup>680</sup> IACHR, Hearing, 'Repression and militarization of public security in El Salvador', October 2020; IACHR, hearing 'Violence and citizen security in El Salvador', 174th Period of Sessions, November 11, 2019.

<sup>681</sup> IACHR, "Public Hearing on Repression and Militarization of Public Security in El Salvador," 177th Period of Sessions, October 5, 2020.

<sup>682</sup> IACHR, "Audiencia Pública Represión y militarización de la seguridad pública en El Salvador", 177th Period of Sessions, , October 5, 2020; Ministry of Justice and Public Security, La dignificación de la carrera policial, una prioridad para la actual administración afirma Ministro de Seguridad, September 1, 2020.

<sup>683</sup> Official prison statistics compiled by the Directorate General of Correctional Facilities as of October 19, 2020., "Prison Statistics as of October 19, 2020," October 2020.

<sup>684</sup> Directorate General of Correctional Facilities, "Prison Statistics as of December 28, 2020," December 28, 2020.

<sup>685</sup> "Director @OsirisLunaMeza, orders maximum emergency in all @CentrosPenales of gang members, due to intelligence information of homicide orders issued from there. Absolute lockdown 24 hours a day, every day, while police

Penitentiary Centers reported that inmates from different gangs would begin sharing the same cells.<sup>686</sup> In addition, videos on the Government's social networks revealed the inhuman and degrading treatment to which persons deprived of liberty were subjected during the transfer operations.<sup>687</sup>

351. Finally, within the framework of the hearing "Situation of persons deprived of liberty in El Salvador in the context of the pandemic, with a gender perspective," held on December 3, 2020, the IACHR received information on the serious situation of women deprived of liberty resulting from the imposition of the extraordinary measures and the deplorable detention conditions that characterize Salvadoran prisons. Likewise, civil society organizations alerted the IACHR to the arbitrary nature of the detention of women detained after suffering obstetric emergencies, as well as the aggravated risks they face in the context of the COVID-19 pandemic. During the hearing, the State acknowledged that the prison situation is one of the greatest challenges facing the current administration in terms of security. It also reported on preventive and control measures that have been adopted in order to avoid the intramural spread of the COVID-19 virus. The IACHR, for its part, highlighted the importance of reducing the levels of overcrowding and called on the Salvadoran State to release 14 women who are serving sentences for obstetric emergencies.<sup>688</sup>

352. Regarding **women's rights**, the Commission takes note of the request of the United Nations Working Group on Arbitrary Detention to the Salvadoran State to release and compensate three women deprived of their liberty for having abortions, considering that these detentions were arbitrary. According to civil society organizations, this was reportedly the first time that this mechanism has explicitly commented on the conditions in which these women were detained and the way in which their rights of presumption of innocence, due process, and access to justice were violated.<sup>689</sup>

353. The IACHR also takes note of information in the public domain that in El Salvador, between January and June 2020, on average 50 women a day were victims of violence, totaling 9,176 cases that included, inter alia, sexual, physical, patrimonial, labor, and psychological violence. Likewise, 1,569 of the registered cases involved women under 18 years of age.<sup>690</sup> According to local press information, during the first five months of 2020, the Attorney General's Office opened 2,044 files on complaints of sexual violence and more than 300 cases of expressions of violence against women.<sup>691</sup> The Commission urges the State to reformulate the traditional mechanisms for responding to gender violence, and to adopt alternative channels of communication, such as hotlines. Additionally, it calls on the State to promote the strengthening of community networks in order to

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operations are carried out." Twitter account of Nayib Bukele (@nayibbukele), president of El Salvador, publication of April 25, 2020.

<sup>686</sup> "Giving continuity to the order of President @nayibbukele we are finalizing strategic searches in gang prisons: Izalco Penitentiary Complex, Máxima de Zacatecoluca, Ciudad Barrios, San Francisco Gotera, Quezaltepeque". Twitter account of Osiris Luna Meza (@OsirisLunaMeza), Vice Minister of Justice and General Director of Penitentiary Centers, publication of April 25, 2020.

<sup>687</sup> HRW, El Salvador: Inhumane treatment of inmates in prisons, April 29, 2020.

<sup>688</sup> IACHR, Press Release no. 311/20, IACHR concludes its 178th virtual session - Annex, Washington, D.C., December 22, 2020.

<sup>689</sup> El País, A group of UN experts asks El Salvador to release three women imprisoned for having abortions, February 26, 2020.

<sup>690</sup> El Salvador, Every day, 50 women were victims of violence between January and June 2020, January 11, 2021.

<sup>691</sup> El Salvador, Mujeres, entre la violencia sexual y feminicidios, June 14, 2020.



expand ways to report aggression and to bolster protection orders in the context of restrictions imposed by the COVID-19 pandemic.

354. Regarding **women human rights defenders**, the IACHR received troubling information about acts of harassment against them.<sup>692</sup> In particular, the IACHR was informed about digital attacks of different types against women defenders who publicly denounce alleged irregularities by the State in its efforts to address the COVID-19 crisis. As a result of those complaints, several women defenders have received intimidating messages on different social networks, which allegedly contain strong misogynistic and gender-based messages. Similarly, there are reports of stigmatizing speeches made by the highest authorities of the State seeking to discredit the complaints issued by women defenders. The IACHR reminds the State of the importance of publicly and unequivocally recognizing the fundamental role played by human rights defenders in guaranteeing democracy and the rule of law.

355. With respect to **persons in human mobility**, the Commission learned of the implementation of the Asylum Cooperation Agreement between the United States and El Salvador. According to public information, the agreement in question seeks to ensure that persons requesting asylum or similar humanitarian protection at the U.S. border are returned to El Salvador to request protection in that country.<sup>693</sup> In this regard, the Commission reiterates its concern that the agreement would be contrary to the State's obligations regarding the human rights of persons in the context of human mobility, particularly the right to seek and receive asylum and respect for the principle of *non-refoulement*. With regard to **internally displaced persons**, the Commission took note of the passing by the Legislative Assembly of the Special Law for the Comprehensive Care and Protection of Persons in Conditions of Forced Internal Displacement.<sup>694</sup> According to public information, the passing of that Law was a consequence of sentence 411/17 of the Constitutional Chamber of the Supreme Court of Justice, which recognized the phenomenon of internal displacement by violence.<sup>695</sup>

356. In relation to **trafficking in persons**, during the public hearing in connection with the 178<sup>th</sup> period of sessions of the IACHR, civil society organizations highlighted the importance of reforming and implementing legislation on this issue, strengthening institutions, and allocating a budget to combat this crime.<sup>696</sup> The Commission also took note of the new proposed Law to Regulate Trafficking in Persons,<sup>697</sup> which was drafted to combat trafficking in persons in El Salvador.

357. Regarding the rights of **children and adolescents**, the IACHR notes that the Criminal Chamber of the Supreme Court of Justice, upon appeal filed by the Attorney General's Office, decided

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<sup>692</sup> Red Salvadoreña de Defensoras de Derechos Humanos, CEJIL, Asociación para el Progreso de las Comunicaciones, Iniciativa Mesoamericana de Mujeres Defensoras de Derechos Humanos, Incremento de violencia digital en contra de defensoras en el marco de la pandemia COVID - 19, June 24, 2020 (on file with IACHR).

<sup>693</sup> US Embassy in El Salvador, El Salvador begins implementation of the Asylum Cooperation Agreement, December 15, 2020.

<sup>694</sup> UNHCR, UNHCR welcomes approval of law on internal displacement in El Salvador, January 9, 2020. CNN, Approval of law to protect victims of forced displacement in El Salvador, January 9, 2020.

<sup>695</sup> IACHR, Press Release 178/18 - IACHR and UN Special Rapporteur on the human rights of internally displaced persons welcome ruling on internal displacement resulting from violence by the Constitutional Chamber of El Salvador, Washington DC, August 10, 2018.

<sup>696</sup> IACHR, Public Hearing "Situation of the Human Rights of Victims of Trafficking in Persons in the Region," 178th Regular Session, December 3, 2020.

<sup>697</sup> Assembly of Government of El Salvador, A new law to regulate human trafficking under study, December 7, 2020.

to put on trial the magistrate accused of having touched the genitals of a 10-year-old girl, annulling the decision of the First Criminal Chamber that had acquitted the magistrate of the crime of sexual assault against the girl.<sup>698</sup> The IACHR has monitored the case since the occurrence of the alleged crime in 2019, as mentioned in its annual report.<sup>699</sup> Sexual violence against children and adolescents in El Salvador continues to be of particular concern to the IACHR in light of data from the National Council for Children and Adolescents (CONNA) indicating that 1,267 complaints of violence against the sexual integrity of children and adolescents were registered during the first semester of 2020 (24.19% of the total number of cases registered by the Council).<sup>700</sup> In addition to the above, the IACHR is concerned about the information that 258 cases of pregnancies were registered of girls between 10 and 14 years old and 6,581 cases of adolescents between 15 and 19 years old between January and June 2020, with an increase of 71.60% between the first and second half of the year.<sup>701</sup>

358. Regarding the protection of children and adolescents during the COVID-19 pandemic, the IACHR was informed that 22 children were infected during their stay in a unit of the Salvadoran Institute for the Development of Children and Adolescents (ISNA). In this regard, the IACHR took note of the investigation announced by the Ministry of Health, recalled the responsibility of the State as guarantor of the integrity of children and adolescents in its custody, and urged the authorities to strengthen the protection of children and adolescents by implementing measures to prevent infection and establishing protocols.

359. Regarding the rights of **lesbian, gay, bisexual, trans, gender diverse, and intersex (LGBTI) persons**, the Commission welcomes the State's efforts to investigate, prosecute, and punish acts of discrimination and violence against LGBTI persons or those perceived as such, in particular the judicial decision to punish the murder of Camila Díaz<sup>702</sup> as a transfemicide. The IACHR also receives with concern information about the situation of exclusion, discrimination and violence in which LGBTI persons or persons perceived as such find themselves, which reportedly induces a large number of them to migrate and seek asylum or refuge in another country.<sup>703</sup> Furthermore, the Commission has received reports of acts of discrimination and violence against LGBTI persons, or persons perceived as such.<sup>704</sup>

360. In relation to the **rights of older persons**, the IACHR highlights the progress made by the Commission on the Family, Children, Adolescents, the Elderly, and Persons with Disabilities of the Legislative Assembly with the participation of civil society with the "Bill for the Protection of Older

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<sup>698</sup> La Prensa Gráfica, Criminal Chamber orders trial for magistrate Escalante, June 3, 2020. Deutsche Welle, Corte Suprema de El Salvador ordena juicio contra magistrado por abuso de niña, July 3, 2020.

<sup>699</sup> IACHR, Annual Report 2019: chapter IV-A, section on El Salvador, para. 268.

<sup>700</sup> Yahoo! News, Sexual violence leaves alarming data of pregnant girls in El Salvador, August 26, 2020.

<sup>701</sup> Red para la Infancia y la Adolescencia (RIA), Balance de cumplimiento de los derechos de la niñez y adolescencia salvadoreña, November 20, 2020, p. 2-3. (on file with IACHR)

<sup>702</sup> Agencia Presentes, For the first time the Justice System of El Salvador condemns a transfemicide, July 28, 2020.

<sup>703</sup> UNHCR, Death of trans asylum seeker in Guatemala highlights increased risks and protection needs for LGBTI community, August 6, 2020; El Economista, El Salvador, the country with the most displaced and refugees, December 17, 2020; Pink News, Non-binary artist who won landmark asylum claim recalls police beating, December 28, 2020.

<sup>704</sup> Infobae, La discriminación sigue afectando a defensores LGTBI de DD.HH. en El Salvador, November 24, 2020; IACHR, Tweet, January 21, 2020; Agencia Presentes, Asesinan y prenden fuego a Tita ,trans de 32 años, en El Salvador, March 16, 2020; Agencia Presentes, Asesinan a mujer trans en El Salvador: activistas reclaman investigación, September 11, 2020.

Persons" which will replace the "Law on Comprehensive Care for Older Persons"<sup>705</sup> of 2002 in light of the standards established in the Inter-American Convention on the Protection of the Human Rights of Older Persons to which the State of El Salvador is a party. However, the IACHR expresses its concern about the gaps in the institutional framework for the protection of older persons that have been generated in the transition process towards the new law and urges the State to adopt the necessary measures for the prompt activation of the National Council for Older Persons (CONAPAM).

361. In the area of **memory, truth, and justice**, the Commission called on the Salvadoran State to ensure the rights of the victims of the internal armed conflict when it learned that the National Reconciliation Bill, under discussion by the Legislative Assembly, could establish a time limit for reporting serious human rights violations and war crimes committed during the internal armed conflict.<sup>706</sup> The IACHR also notes that, on February 26, the Legislative Assembly approved the "Special Law on Transitional and Restorative Justice for National Reconciliation" and that this Legislative Decree was vetoed by the president two days later.<sup>707</sup> Civil society organizations criticized different aspects of the approved decree and demanded that the Constitutional Chamber hold a follow-up hearing to verify compliance with the constitutional obligations contained in Unconstitutionality Ruling 44-2013.<sup>708</sup> The IACHR takes note of the holding of the hearing on October 30, 2020.<sup>709</sup>

362. The IACHR has also been informed that, on March 6, the Ministry of National Defense (MDN) prevented the Institute for Access to Public Information (IAIP) from carrying out an administrative inspection requested by the University of El Salvador of archives related to military operations during the armed conflict.<sup>710</sup> Likewise, the Commission learned of repeated refusals by the MDN to comply with a court order to carry out an inspection with judicial intervention of the archives of the Armed Forces in the framework of criminal proceedings related to the Massacre of El Mozote and surrounding areas.<sup>711</sup> At the same time, the Executive Power affirmed that it would declassify and deliver to the Attorney General's Office the documents found in the Joint Chiefs of Staff of the Armed Forces and in the barracks that allegedly participated in the El Mozote Massacre and surrounding<sup>712</sup> areas. However, according to public information, the documentation sent corresponds to documents already delivered in previous years to the San Francisco Gotera court.<sup>713</sup> Accordingly, the IACHR

<sup>705</sup> Asamblea Legislativa de El Salvador, "Por finalizar estudio de la Ley de Protección a la Persona Adulta Mayor", December 29, 2020.

<sup>706</sup> Focos, Human Rights Ombudsman: victims must have deadline to denounce war crimes and crimes against humanity, January 6, 2020.

<sup>707</sup> Diario Co Latino, Asamblea aprueba Ley de Reconciliación, February 27, 2020; Asamblea Legislativa, Dictamen N° 22, February 26, 2020; Transparencia, Veto al Decreto Legislativo No. 575, February 28, 2020.

<sup>708</sup> IDHUCA, Recomendación para Convocatoria Inmediata de Convocatoria Inmediata de Audiencia de Seguimiento / Inconstitucionalidad 44-2013 AC, March 2, 2020; Forbes, Víctimas de guerra salvadoreña y ONG cierran filas ante ley de reconciliación, February 28, 2020; ARPAS, "Noche de vergüenza": 44 votan por ley que permitirá eliminar condena a victimarios, February 27, 2020.

<sup>709</sup> Judicial Documentation Center, 44-2013 Unconstitutionality, October 5, 2020.

<sup>710</sup> ElSalvador.com, Fuerza Armada bloquea acceso a comisionados del Instituto de Información a inspección de archivos, March 6, 2020.

<sup>711</sup> ElSalvador.com, Los 4 bloqueos a los archivos militares de El Mozote: lo que hasta hoy sabemos, October 14, 2020.

<sup>712</sup> CNN Español, Nayib Bukele declassifies El Mozote files and will turn them over to the Attorney General's Office, September 25, 2020.

<sup>713</sup> El Faro, Archivos de El Mozote que Bukele "desclasificó" son copias de informes enviados por Sánchez Cerén, October 28, 2020.

reiterates its call to the Salvadoran State to comply with its obligation to order, systematize, and make available the documentation and archives related to the serious human rights violations under investigation as a guarantee of the right to truth and justice.

363. In addition, the IACHR has received with concern the news that the Criminal Chamber of the Supreme Court of Justice issued a resolution ordering the closure of the criminal case related to the massacre of the six Jesuit priests and two women.<sup>714</sup> With regard to the search for missing persons, the Commission notes that between 2011 and May 2020, the National Commission for the Search for Children Disappeared during the Armed Conflict (CNB) resolved 107 of the 349 cases reported, achieving 38 reunions (of missing persons with their next of kin), 16 locations of missing persons, and 38 locations of deceased persons.<sup>715</sup>

364. With regard to freedom of expression, the Office of the Special Rapporteur notes with particular concern the constant disqualifications and threats by high-level authorities against journalists and media outlets whose editorial lines are critical of the Government. Likewise, restrictions imposed by government authorities on access to public information have increased since the outbreak of the pandemic. By mid-2020, El Salvador remained one of the few democratic countries in the region where the Access to Information Law was still suspended due to the health crisis.

## GRENADA

- **General considerations**

365. With respect to **progress**, the IACHR highlights the measures adopted to contain the spread of COVID-19. Also, the Commission takes note of the training given to the police on data analysis and collection and welcomes the ongoing efforts by the Royal Grenada Police Force (RGPF) to seize illegal firearms and prevent violence in the country.

366. In terms of **challenges**, the Commission observes the increase in homicides in the country, and the surge in cases of incest by adults against children and adolescents during the COVID-19 pandemic. The Commission also notes the difficulties that children and adolescents face to access online education. The IACHR is deeply concerned at the criminalization of consensual sex between LGBTI people, the lack of legislation to protect refugees, and the failure of the State to abolish capital punishment.

367. The State did not submit a response to the request for information sent for the preparation of this chapter.

- **Specific issues**

368. Regarding the COVID-19 pandemic, the IACHR highlights the measures adopted to contain the spread of the virus. In Grenada, the first case was registered on March 22. Preventative actions included the closing of borders on March 23, the declaration of a national state of emergency on March 25, curfews, and the suspension of classes at all levels. The country began opening its

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<sup>714</sup> *La Vanguardia*, [Denuncian a jueces del Supremo de El Salvador que cerraron el caso Jesuitas](#), December 16, 2020.

<sup>715</sup> *CNB*, [Statistics: period September 2011 to May 2020](#), 2020.

borders on July 15, and on August 1 they were opened for international passengers, complying with the rules established in the sanitary protocol.<sup>716</sup>

369. Likewise, the IACHR notes that, according to information in the public domain, the Government tried to pass the Coronavirus Disease (COVID-19) Control Bill,<sup>717</sup> allegedly without the required consultation of stakeholders, which could be interpreted as a limitation to their right to participate in public affairs: an essential component of participatory democracy. The Commission also notes that following public criticism, it was reported that the Bill was subsequently cancelled until further consultation with stakeholders could take place.<sup>718</sup>

370. With regard to democratic institutionalism, the Commission notes that the Governor General of Grenada was able to appoint a leader of the Opposition in April, after two years in which the post remained vacant.<sup>719</sup> The Commission observes that this new leader will now be the only opposition member in the Grenadian House of Representatives.<sup>720</sup> Furthermore, in terms of the rule of law, the IACHR notes that, according to the World Justice Project, Grenada's score decreased 1.8%<sup>721</sup> in 2020, placing the country at rank 10 out of 30 countries in Latin America and the Caribbean.<sup>722</sup>

371. With regard to **human rights institutions**, the IACHR highlights the fact that the Grenada Ombudsperson's Office is part of the Caribbean Association of Ombudspersons and of the Commonwealth Forum of National Human Rights Institutes.<sup>723</sup>

372. With respect to **citizen security**, the Commission notes with great concern that there was a 33 percent increase in the number of homicides during the first seven months of 2020 compared to the same period in 2019.<sup>724</sup> On the other hand, the IACHR welcomes the continuous efforts by the Royal Grenada Police Force (RGPF) to seize illegal firearms and prevent violence in the country.<sup>725</sup> The Commission further notes that the RGPF received training on standardizing the collection and analysis of crime data aimed at improving crime management and the distribution of law enforcement resources, and helping to shape policy.<sup>726</sup>

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<sup>716</sup> Ministry of Tourism, Grenada, Protocol for travelers entering Grenada.

<sup>717</sup> Now Grenada, Coronavirus Disease (Covid-19) Control Bill, 2020, 26 July 2020. The Bill aims to regulate the spread of the virus "in the interests of public safety, public order, and public health and for the maintenance of a substantial portion of the community and supplies and services essential to the life of the community of the State of Grenada."

<sup>718</sup> Now Grenada: Tightening the noose on fundamental rights and freedoms, 30 July 2020.

<sup>719</sup> Caribbean Elections, Leaders of the Opposition of Grenada, 2020.

<sup>720</sup> Now Grenada, Tobias Clement appointed Leader of the Opposition, 14 April 2020.

<sup>721</sup> World Justice Project, WJP Rule of Law Index Performance: Grenada, 2019, p.1. Grenada was ranked 43rd out of 126 countries in 2019, and 44th out of 128 countries in 2020, resulting in an estimated decrease of 1.8%.

<sup>722</sup> World Justice Project, WJP Rule of Law Index Performance: Grenada, 2020, p.1.

<sup>723</sup> Commonwealth Forum of National Human Rights Institutes.

<sup>724</sup> Crisis 24, Grenada Country Report: Crime, 2020.

<sup>725</sup> Now Grenada, Illegal firearms and ammunition confiscated, 20 August 2020.

<sup>726</sup> CEPAL, Caribbean Gender Statistics Webinar Series, Grenada's experience with the production of gender statistics, 26 August 2020 and US Embassy, Royal Grenada Police Force CariSECURE Training, 14 December 2020.

373. Regarding **children and adolescents**, the Commission takes note of the concern raised during Grenada's 3rd cycle of the Universal Periodic Review in January about reports of child abuse in the country.<sup>727</sup> The IACHR notes the report by police authorities on a surge in cases of incest during the COVID-19 lockdown by adults against children aged 13 to 16, and also indicated that while there were 56 incest cases as of September 2020, there had been 8 cases from January to December 2019.<sup>728</sup> The Commission also notes that, according to information provided by the Police, due to the classification of this crime, the 56 cases in 2020 do not imply 56 victims since a perpetrator may have committed multiple offences against the same victim. The Commission expresses deep concern with these incidences of abuse, and urges the State to implement prevention measures, including the adoption of administrative, legislative, and other measures to ensure that officials are trained to investigate and prosecute these cases from a gender and child rights perspective.<sup>729</sup>

374. In terms of access to education, the Commission took note that, according to the Governor General of Grenada, the education system was negatively impacted due to the pandemic.<sup>730</sup> The Governor General indicated that the closure of schools challenged many children to adjust to virtual learning, and since no new COVID-19 cases had been recorded for the period of a month, the Ministry of Education published strict protocols for the reopening of schools starting in September.<sup>731</sup> However, even though the Chief Medical Officer made a public plea for schools to be reopened,<sup>732</sup> the schedule was further delayed to 2021 due to a reported spike in COVID-19 cases by the end of 2020.<sup>733</sup>

375. With respect to corporal punishment, the IACHR observes that during its Universal Periodic Review, the State indicated its willingness to continue raising public awareness on corporal punishment with the aim of eventually discontinuing the practice in schools.<sup>734</sup> The IACHR takes note of the State's commitment and reiterates the importance of abolishing all forms of violence against children.

376. Regarding the rights of **lesbian, gay, bisexual, trans and gender diverse, and intersex (LGBTI) persons**, the Commission notes that the Penal Code maintains the penalty of 10 years in prison, which can be applied to consensual sexual conduct between persons of the same sex, which is discriminatory and contravenes inter-American standards on the matter, even when State authorities deem it obsolete and it is not applied in practice.<sup>735</sup> The IACHR calls upon the State of

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<sup>727</sup> Now Grenada, Grenada's Universal Periodic Review on Human Rights is set for 27 January 2020, 23 January 2020.

<sup>728</sup> Now Grenada, [2020 data shows a surge in incest matters](#), 21 December 2020.

<sup>729</sup> IACHR, Press Release 194/20 – IACHR Brings Guatemala Case Before the I/A Court. Washington DC, August 7, 2020.

<sup>730</sup> Now Grenada, Covid-19 and the reopening of schools, 8 September 2020.

<sup>731</sup> Now Grenada, Covid-19 and the reopening of schools, 8 September 2020.

<sup>732</sup> Nation News, Grenada CMO: Time for schools to reopen, 10 November 2020.

<sup>733</sup> Barbados Today, REGIONAL: Grenada reopening of schools delayed for new year due to COVID-19, 29 December 2020.

<sup>734</sup> UNHRC, Forty-fourth session, Universal periodic review Report of the Working Group on the Universal Periodic Review\* Grenada, Agenda item 6, A/HRC/44/13, 15 June – 3 July 2020, para. 53.

<sup>735</sup> Criminal Code, Title XXIX, Section 431; Now Grenada, Grenada classifies death penalty and LGBTQ rights as 'noted' concerns, 22 September 2020; The New Today Grenada, Gay men in video will not be charged, October 24, 2020; Loop News, Grenada Bishop: 'Pope did not say yes to same-sex marriage', October 26, 2020.

Grenada to adopt measures aimed at repealing the legal provisions that criminalize consensual sexual relations between persons of the same sex.

377. Regarding the rights of **women**, the findings of the first national study on gender-based violence, launched in August 2020, show, inter alia, that one in every four Grenadian women has suffered physical violence at some point in their life.<sup>736</sup>

378. In relation to the **rights of people in human mobility**, the IACHR observes that Grenada does not have specific legislation for the care of refugees or people with international protection needs.<sup>737</sup> Nor is it a State party to the 1951 Convention on the Status of Refugees or to its 1967 Protocol.<sup>738</sup> The IACHR urges the State to adopt the legislative and administrative measures needed to afford effective protection of people in a mobile situation.<sup>739</sup>

379. Regarding the **death penalty**, the IACHR observes that during the 3rd cycle of Grenada's Universal Periodic Review, the official delegation indicated that Grenada was a *de facto* abolitionist State with a *de facto* moratorium in effect and emphasized that Grenada's highest appellate court had ruled since 2007 that the mandatory death penalty was unconstitutional.<sup>740</sup> The Commission takes note that there is only one person on death row and no execution has taken place since 1978.<sup>741</sup> The IACHR urges the Government to work towards the abolition of the death penalty.

## GUATEMALA

- **General considerations**

380. With respect to the **progress made** in the face of the COVID-19 pandemic, the IACHR highlights the measures adopted to contain the spread of the virus. Likewise, the IACHR highlights the decrease in the homicide rate registered in 2020.

381. In terms of **challenges**, the IACHR notes with concern the unjustified delay in the appointment of judges to the High Courts, the use of public force in demonstrations, the increase and impunity of acts of violence against human rights defenders, and the implementation of new reforms to the institutional framework for peace and human rights.

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<sup>736</sup> Caribank, Grenada's First National Study on Gender-Based Violence findings included in the new "[Caribbean Women Count: The Ending Violence against Women and Girls Data Hub](#)", August 8, 2020

<sup>737</sup> The New Today, Refugee in Grenada, April 17, 2020.

<sup>738</sup> ACNUR, Estados partes de la Convención de 1951 sobre el Estatuto de los Refugiados y el Protocolo de 1967.

<sup>739</sup> ACNUR, Estados partes de la Convención de 1951 sobre el Estatuto de los Refugiados y el Protocolo de 1967.

<sup>740</sup> UNHRC, Forty-fourth session, Universal periodic review Report of the Working Group on the Universal Periodic Review\* Grenada, Agenda item 6, A/HRC/44/13, 15 June – 3 July 2020, para. 52.

<sup>741</sup> Meeting with the Death Penalty Project on 27 October 2020.



382. The State responded to the request for information sent for the preparation of this chapter.<sup>742</sup>

- **Specific topics**

383. In relation to the measures taken to prevent and contain **the COVID-19 pandemic**, on March 5, the Executive decreed a state of public calamity, adopting measures to limit large congregations of people such as public shows, meetings, and events. Likewise, after the first case reported in the country, on March 14, other actions were announced, such as a curfew, suspension of classes in educational centers, work stoppages, suspension of non-essential activities, suspension of public transportation, prohibition of the entry of foreigners, and closure of land, air, and sea borders.<sup>743</sup> These restrictions were extended until September 30.<sup>744</sup> On September 17, the reopening of air borders was announced.<sup>745</sup> On June 8, 2020, the State also informed the IACHR about a broad set of measures taken "with the purpose of establishing several social assistance programs,, including: a family bonus, an informal sector bonus (*bono al comercio popular*), an employment protection fund, school meals, the "Juntos Saldremos Adelante" (Together We'll Make it) Fund, the Working Capital Credit Fund, and an Economic Contribution Program for the Elderly (PAM).<sup>746</sup>

384. In this regard, the IACHR is concerned about information received concerning the alleged lack of transparency and accountability with respect to the resources allocated for pandemic care. In particular, the IACHR learned of allegations of corruption in the Ministry of Public Health and Social Assistance (MSPAS), where certain suppliers were allegedly favored in the public procurement of COVID-19 tests.<sup>747</sup>

385. With respect to **democratic institutional**ity, the IACHR noted with concern that the State repression of the social protests that began on November 21, 2020, as well as some isolated acts of violence that occurred in the context of those protests, led to a political and institutional crisis in Guatemala. Those protests were convened peacefully in rejection of congressional approval of the 2021 budget and, subsequently, were joined by other social demands related to the rejection of corruption, questions about the use of resources to address the COVID-19 pandemic, and in general, rejection of the State's response to the social, economic, and political crisis in the country, which worsened with the hurricane season. In this regard, the IACHR lamented the repression against demonstrators, journalists, and human rights defenders during the days of protest, and condemned the acts of vandalism committed against the Congress building. At the same time, the IACHR called for

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<sup>742</sup> Report of the State of Guatemala in response to the request for information for the preparation of the Annual Report of the Inter-American Commission on Human Rights (IACHR) 2020, Chapter IV, Section A, Ref. NV-OEA-M4-No.755-2020, October 2, 2020.

<sup>743</sup> Government of Guatemala, Cadena Nacional President Alejandro Giammattei, March 14, 2020.

<sup>744</sup> Prensa Libre, "Ejecutivo finaliza el estado de Calamidad y pide seguir las buenas prácticas para prevenir contagios de coronavirus", September 29, 2020; La Hora, "COVID-19: Gobierno no solicitará prórroga al Estado de Calamidad", September 29, 2020.

<sup>745</sup> Twitter account of the Ministry of Public Health (@MinSaludGuate), publication of September 17, 2020.

<sup>746</sup> Government of Guatemala, Responses of the State of Guatemala to the Questionnaire of the Inter-American Commission on Human Rights entitled: "Medidas para prevenir, atender y contener la pandemia COVID-19". Report of June 8, 2020.

<sup>747</sup> Agencia EFE, "Centroamérica encara la corrupción que prolifera con la pandemia del Covid-19", 26 April 2020; Prensa Libre, "Estos son cinco casos de posible corrupción que destacan en 10 meses del gobierno", 14 October 2020.

a solution based on dialogue and democratic values, consistent with the principles of the rule of law in Guatemala.<sup>748</sup>

386. In connection with those events, on November 22, the Congress suspended the processing of Decree 33-2020 related to the 2021 Budget. For its part, the Executive invoked the Inter-American Democratic Charter owing to "the coordinated acts of violence" that disturbed public peace, placing "at serious risk the democratic institutionalism" in the country, as well as the "legitimate exercise of power by the democratically elected authorities."<sup>749</sup> On November 26, the Secretary General of the Organization of American States (OAS) ordered the dispatch of a special mission, which was installed in the country between November 27 and December 2, 2020.<sup>750</sup>

387. Regarding the cross-cutting issue of **human rights institutions**, in the period under review, the Inter-American Commission received troubling information about actions reportedly impairing the work of the Office of the Human Rights Ombudsperson (PDH), through an attempted reduction of its budget and the continuation of acts of harassment, smear campaigns, and stigmatization against it. Likewise, the IACHR became aware of measures that reportedly posed a serious setback for human rights institutions, including: the closure of the Secretariat for Peace (SEPAZ) and the Presidential Commission for the Coordination of Executive Policy on Human Rights (COPREDEH) on July 30, 2020, to make way for the creation of the Presidential Commission for Peace and Human Rights (COPADEH), a temporary entity that, according to reports, did not have the budgetary and human resources, or an adequate legal framework to assume the functions and responsibilities of the entities it replaced.

388. The Guatemalan State, for its part, reported that the PDH has acted freely, without restrictions on its functions and, therefore, the actions of persons who, in the exercise of their defense or as a result of clarification, may feel aggrieved by resolutions, statements, or actions should not be attributed to the State. The State indicated that it is not aware of any action that has limited the right of the PDH to file any action for libel, defamation, or any other offense. Finally, it pointed out that "as in any State under the rule of law, no authority of any State institution is superior to the law, and all its actions as a civil servant must be carried out with accountability. Therefore, as with other institutions, the Human Rights Ombudsperson's Office is being required by other State control bodies to clarify situations regarding its substantive or administrative actions, which should not be interpreted as a persecution of its head or of the institution itself."<sup>751</sup> In this context, the IACHR reiterates its recognition of the role played by the Human Rights Ombudsperson for the promotion and protection of human rights in Guatemala.

389. The State also informed the IACHR that the decision to close COPREDEH and SEPAZ was based on the determinations of the *Technical Committee for Evaluation and Innovation of*

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<sup>748</sup> IACHR, Press Release no. 281/20, IACHR condemns excessive use of force and urges investigation of all forms of violence during social protests in Guatemala, Washington, D.C., November 23, 2020.

<sup>749</sup> Communiqué "El Gobierno de Guatemala a la población en general informa". Twitter account of the Government of Guatemala (@GuatemalaGob), publication of November 22, 2020; EFE, "Giammattei invoca la Carta Democrática Interamericana ante la crisis en Guatemala," November 22, 2020.

<sup>750</sup> OAS, Press Release C-199/2020, Communiqué of the OAS General Secretariat on the dispatch of the Mission to Guatemala, November 26, 2020.

<sup>751</sup> Report of the State of Guatemala in response to the request for information for the preparation of the Annual Report of the Inter-American Commission on Human Rights (IACHR) 2020, Chapter IV, Section A, Ref. NV-OEA-M4-No.755-2020, October 2, 2020, p. 3.

*Institutional Public Management of the Presidency of the Republic*, created on June 24, 2020, as part of the *Government's Innovation and Development Plan* promoted since the beginning of President Alejandro Giammattei's term of office on January 14.<sup>752</sup>

390. As regards **citizen security**, the State highlighted the decrease in the homicide rate registered in 2020 as a result of the Citizen Security Strategies implemented at the national level, under the coordination of the Ministry of Interior and with the help the National Civil Police (PNC)". Up to July 31, 2020, the homicide rate was 16.6 per 100 thousand inhabitants, which represents a decrease of 28.7% compared to 2019 when the rate was 23.3 homicides per 100 thousand inhabitants. In the same period, nationwide, 1,425 homicides were reported, representing a decrease of 35.25% compared to 2019. In the department of Guatemala, the reduction was reportedly 51%, with 460 cases registered in 2020.<sup>753</sup> The IACHR found that, in the first half of the year, there was reportedly also a reduction in the total incidence of crime as a result, mainly, of the containment measures taken to address the global COVID-19 pandemic.<sup>754</sup> However, in the same period of COVID-19 containment, the information received by the IACHR points to an increase in crimes related to violence against women. For example, the National Civil Police's assistance in cases of domestic violence registered increased by 26.3%.<sup>755</sup>

391. In relation to **access to justice and judicial independence**, the IACHR learned about the delay by Congress in appointing judges to the High Courts for the 2019-2024 term, as well as the intensification of attacks and threats to the judicial independence of the Constitutional Court (CC), based on unusually expeditious processing and alleged abuse of the impeachment procedure with the aim of intimidating and/or eventually removing its judges from office in retaliation for the criteria they cited in rulings they handed down regarding the High Courts election process.<sup>756</sup>

392. According to public information, in February 2020, the anti-impunity unit in Guatemala's Office of the Attorney General (FECI) revealed the existence of illicit deals and influence

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<sup>752</sup> In this regard, the State emphasized that "restructuring government institutions implies an improvement, which is carried out through efficient and effective mechanisms of innovation in institutional public management to strengthen public administration, with the main objective of complying with the general policies of government and the commitments made by the State within the convention and in pursuit of the priorities for the achievement of the enjoyment of human rights of all Guatemalans. Report of the State of Guatemala on Compliance with Recommendations, Ref. NV-OEA-M4-No.803-2020, October 23, 2020, p. 2.

<sup>753</sup> Report of the State of Guatemala in response to the request for information for the preparation of the Annual Report of the Inter-American Commission on Human Rights (IACHR) 2020, Chapter IV, Section A, Ref. NV-OEA-M4-No.755-2020, October 2, 2020, p. 4; Ministerio de Gobernación, "Tasa de Homicidios a nivel nacional en 2020 continúa a la baja," August 13, 2020.

<sup>754</sup> Total incidence includes crimes registered by PNC, plus the following : extortions, robberies, thefts, injuries, homicides, rapes and domestic violence; missing persons are excluded as they do not constitute a crime. UNDP Info Segura, Análisis sobre la Situación de Violencia y Seguridad Ciudadana 1st Semester 2020, October 1, 2020, p. 11.

<sup>755</sup> UNDP Info Segura, Analysis on the Situation of Violence and Citizen Security 1st Semester 2020, October 1, 2020, pp. 11ff.

<sup>756</sup> Meeting held on July 20, 2020 between the IACHR, the Human Rights Ombudsperson, Magistrates of the Constitutional Court, and other civil society organizations. On file with the IACHR. Through communiqués of June 30 and August 14, the IACHR expressed its concern about the impeachment proceedings against the magistrates of the Constitutional Court. IACHR, Press Release no. 199/20, IACHR urges an end to threats to the independence of magistrates of the Constitutional Court in Guatemala. Washington, D.C., August 14, 2020 and IACHR, Press Release no. 156/20, IACHR expresses concern over impeachment proceedings brought against four judges of the Constitutional Court of Guatemala, Washington, D.C., June 30, 2020;; also, on November 18, the IACHR learned of a new impeachment proceeding sent to Congress against Judge Gloria Patricia Porras Escobar and Judge Francisco José de Mata Vela, both beneficiaries of precautionary measures granted by the IACHR. Observatorio de Independencia Judicial, Nuevo antejuicio malicioso en contra de la CC, November 27, 2020.

peddling in the election process. In view of those disclosures, on May 6, the CC granted a definitive injunction in which it ordered the Public Prosecutors' Office (*Ministerio Público*) to send to Congress a report on the candidates about whom complaints had been filed and criminal proceedings initiated.<sup>757</sup> Likewise, the CC ordered Congress to carry out a process in accordance with the requirements established in Article 113 of the Constitution; to exclude from the process those professionals whose suitability and honorability were compromised; and to undertake a constitutional reform process that allows the establishment of an adequate selection and appointment process for magistrates of the Chambers of the Court of Appeals and other Collegiate Courts of the same category and the Supreme Court of Justice.<sup>758</sup>

393. At the end of 2020, the election of magistrates of the CSJ and the Courts of Appeals was likely continue to be delayed by Congress in rejection of compliance with the CC ruling.<sup>759</sup> Consequently, as of the date of this report, the current magistrates of the CSJ remained in office, indefinitely and despite the conclusion of their term in 2019.

394. With regard to the situation of **human rights defenders**, during the period under review, the Commission received troubling information about the increase in attacks and aggression committed against them. In this context, in September, the IACHR condemned the murders, during the first half of the year, of eight human rights defenders who were members of indigenous organizations and land defenders. . At the same time, it called on the State to protect those who defend human rights in the country, as well as to conduct diligent investigations, taking into account the fact that the motive for those murders was the defense activities carried out by the victims.<sup>760</sup> By the end of 2020, the number of aggressions reportedly increased to 1004 cases,<sup>761</sup> and the number of human rights defenders murdered rose to 15.<sup>762</sup>

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<sup>757</sup> This report was presented by FECI on May 28, 2020, and it provided circumstantial evidence of manipulation or influence in the process used to establish the nomination commissions in charge of analyzing the background of the candidates to High Court positions. The FECI included in the report all the investigations that exist against candidates seeking to become High Court judges. Thus, it was established that 75 people aspiring to be part of the Courts of Appeals and 15 people nominated to the Supreme Court of Justice are subject to criminal investigations against them, or have a pending trial. Of those people, at least 10 candidates reportedly communicated directly with Mr. Gustavo Alejos. Observatorio de Independencia Judicial, Informe de MP revela tráfico de influencias en la elección de cortes, 2020.

<sup>758</sup> Constitutional Court, "Amparo, election of CSJ Magistrates and Appeals Chambers". Exp. 1169-2020, May 6, 2020. Resolutions.

<sup>759</sup> WOLA, Joint Pronouncement. "We urge the Guatemalan Congress to conclude the process of electing courts," October 13, 2020. Impunity Watch, Analysis of the congressional court election process, October 5, 2020; DPLF, How to Evaluate the Ethical Suitability of Applicants to the Supreme Court of Justice and Appellate Courts in Guatemala. Recomendaciones para el Congreso de la República respecto del cumplimiento de la sentencia constitucional del 06 de mayo de 2020; Myrna Mack Foundation, Parallel Commissions: Mechanisms of Cooptation of Justice, May 2020; No-Ficción: Election of the CSJ: the machinery of impunity is atrophied, July 16, 2020.

<sup>760</sup> IACHR, Press Release no. 215/20, The IACHR condemns murders and attacks against human rights defenders in Guatemala, Washington, D.C., September 11, 2020.

<sup>761</sup> Of the 1,004 cases of aggression, 33.66% (338) were against women human rights defenders, 52.87% (530) against defenders and 13.54% (136) against collectives, organizations and/or communities. UDEFEGUA deplora 15 murders against human rights defenders, as well as 22 attempted murders. UDEFEGUA, "La consolidación autoritaria y el aumento de agresiones contra personas, organizaciones y comunidades defensoras de derechos humanos", December 17, 2020.

<sup>762</sup> UDEFEGUA, "Aumento histórico en agresiones contra personas defensoras en Guatemala registra Udefegua", November 20, 2020.

395. On the other hand, in the framework of the public hearing "Impunity in the attacks and murders of human rights defenders in Guatemala" held on October 2, the IACHR received information on structural deficiencies in the investigation, punishment, and reparation of cases of attacks and murders against human rights defenders. In this regard, in a communication dated November 27, the State indicated that "the complexity behind the complaint for the crime of aggression is being examined by the Directorate of Criminal Analysis and the Directorate of Criminal Investigation of the Public Prosecutors' Office; since UDEFEGUA reported figures to the IACHR, which the State of Guatemala does not know the source of, they are being studied."<sup>763</sup>

396. With regard to **memory, truth, and justice**, on July 30, 2020, "based on an analysis of the commitments to peace and human rights entered into with the signing of the Firm and Lasting Peace Agreement in 1996," the Executive announced its decision to update its approach to peace and human rights in the national and international context.<sup>764</sup> Thus, in a series of Governmental Decisions, it ordered the closure of the Peace Secretariat (SEPAZ)<sup>765</sup> and its replacement by a new entity. According to the information received by the IACHR, these reforms were reportedly adopted without consulting the victims of the internal armed conflict, their families, or civil society organizations. Furthermore, they allegedly continued the process of weakening those institutions that had gone on for several years in the form of budget cuts.<sup>766</sup> Civil society organizations also pointed out that the closure of SEPAZ contravened the National Reconciliation Law, which assigns it the function of coordinating and providing effective assistance to victims of the armed conflict. Consequently, it risked impairing the operational capacity of the peace institutions in Guatemala, made up of the National Reparations Program (PNR), the National Council for the Fulfillment of the Peace Accords (CNAP), the National Women's Forum, and the Commission for the Definition of Sacred Places (COLUSAG).<sup>767</sup>

397. Regarding the PNR, Governmental Decision 98-2020, adopted by the Executive, assigned administration of the Program to the Ministry of Social Development (MIDES). Organizations of victims of the armed conflict complained that this change would undermine its function of "promoting the dignity of the victims and communities that suffered human rights violations", since the PNR is quite different from the social programs under the responsibility of MIDES.<sup>768</sup> In this regard, the IACHR was informed about the lack of measures to protect thousands of files in the custody of the

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<sup>763</sup> According to information provided by the State, between January 1, 2019 and November 17, 2020, the Public Prosecutor's Office registered only one complaint in the Human Rights Prosecutor's Office for the crime of aggression against a human rights defender, which is in the investigation phase and, therefore, "it has not yet determined whether the motive for this complaint was the victim's work defending human rights." In the same period, the Prosecutor's Office registered 64 complaints regarding criminal threats. Expanded State Report in the framework of the 177th Period of Sessions on the Situation of Human Rights in Guatemala. Republic of Guatemala, Note NV-OEA-M4-No. 826-2020, November 27, 2020.

<sup>764</sup> "The Government of Guatemala reaffirms and updates its commitment to peace and human rights." Twitter account of the Government of Guatemala (@GuatemalaGob) [Publication of July 30, 2020](#).

<sup>765</sup> Ministry of Government, Governmental Decision No. 98-2020; Governmental Agreement No. 98-2020; Governmental Agreement No. 100-2020, July 30, 2020.

<sup>766</sup> Report on compliance with recommendations made by the Inter-American Commission on Human Rights, regarding Transitional Justice and Reparations to victims of the internal armed conflict in Guatemala, published in its country report, December 2017, prepared by the Center for Forensic Analysis and Applied Sciences (CAFCA), October 12, 2020, paras. 15-17.

<sup>767</sup> Impunity Watch, [Peace at Risk: Analysis of the Closure of Peace Institutions in Guatemala](#), November 2020; Report on compliance with recommendations made by the Inter-American Commission on Human Rights regarding Transitional Justice and Reparations to victims of the internal armed conflict in Guatemala, published in its country report, December 2017, prepared by the Center for Forensic Analysis and Applied Sciences (CAFCA), October 12, 2020.

<sup>768</sup> [Communiqué of the National Platform of Organizations of Victims of the Internal Armed Conflict](#), August 4, 2020.

PNR that will be transferred to other agencies of the Executive.<sup>769</sup> Reportedly, in October more than 50,000 files were transferred without safekeeping measures to a MIDES warehouse in the capital due to the closure of the 14 regional offices of the PNR.<sup>770</sup> Likewise, the PNR headquarters is at a standstill due to lack of resources, and therefore, in 2020, allegedly no compensation was paid to the victims of the internal armed conflict.<sup>771</sup>

398. Finally, the IACHR learned of the approval of Ministerial Decision 934-2020, on October 7, 2020, which declares the Historical Archive of the National Police (AHPN) as part of the Cultural Heritage of the Nation.<sup>772</sup> While the IACHR welcomes this measure, it also notes that the AHPN still lacks a budget allocation to ensure the sustainability of its archives and related processes.<sup>773</sup>

399. Regarding the **rights of migrants, asylum seekers, and refugees**, the State indicated that the Office of the Prosecutor General of the Nation (PGN) approved instructions on how to treat unaccompanied migrant children and adolescents within the framework of COVID-19, which would be coordinated jointly with the Social Welfare Secretariat (SBS). According to the information received by the IACHR, this protocol guarantees medical attention, family search, and accompaniment of children and adolescents to their communities of origin.<sup>774</sup> For its part, the report "Deportation with a Layover" of the organization *Refugees International* documented that people sent under the asylum cooperative agreement with the United States (ACA) had 72 hours to decide whether to apply for asylum or temporary residence in Guatemala or be returned to their country of origin. The report also states that the people returned to Guatemala -including children and adolescents- were not provided with information on the procedure to follow.<sup>775</sup> In addition, civil society organizations reported delays in the resolution of asylum procedures. In particular, they indicated that there are more than 768 applications for recognition of refugee status pending before the Guatemalan Migration Institute (IGM).<sup>776</sup>

400. Regarding **human trafficking**, during the public hearing of the 178th Session of the IACHR, civil society organizations expressed their concern about the forced recruitment of children

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<sup>769</sup> Governmental Decisions 97-2020, 98-2020, and 99-2020 order the transfer of the information of the institutions that are eliminated to the Secretariat of Planning and Programming of the Presidency (SEGEPLAN). Article 3 of Governmental Decision 97-2020, Article 4 of Governmental Decision 98-2020 and Article 3 of Governmental Decision 99-2020.

<sup>770</sup> Meeting held on November 6, 2020 between the IACHR, the PDH and civil society organizations on the closure of SEPAZ and the situation of the PNR. On file with the IACHR.

<sup>771</sup> Report on compliance with recommendations made by the Inter-American Commission on Human Rights, regarding Transitional Justice and Reparations to victims of the internal armed conflict in Guatemala, published in its country report, December 2017, prepared by the Center for Forensic Analysis and Applied Sciences (CAFCA), October 12, 2020, paras. 4 et seq.

<sup>772</sup> Ministry of Culture and Sports, "The Historical Archive of the National Police is declared Cultural Heritage", October 7, 2020.

<sup>773</sup> Report on compliance with recommendations made by the Inter-American Commission on Human Rights, regarding Transitional Justice and Reparation to victims of the internal armed conflict in Guatemala, published in its country report, December 2017, prepared by the Center for Forensic Analysis and Applied Sciences (CAFCA), October 12, 2020, paras. 15-17.

<sup>774</sup> MINEX, Informe del Estado de Guatemala en respuesta a la solicitud de información para la elaboración del Informe Anual de la Comisión Interamericana de Derechos Humanos (CIDH) 2020, Chapter IV, Section A, Guatemala, p.15.

<sup>775</sup> Refugees International, Deportation with a Layover failure of protection under the U. S. - Guatemala asylum cooperative agreement, United States, May 2020, pp. 24 and 27.

<sup>776</sup> Prensa Libre, Se acumulan solicitudes de asilo sin resolver en Guatemala (durante pandemia hubo 120), September 12, 2020.



and adolescents by criminal groups in Guatemala.<sup>777</sup> The Commission also takes note of the actions and operations undertaken by the Prosecutor General's Office (PGN), the National Police, the Public Prosecutors' Office, the Ministry of Labor, and the Ministry of Health to rescue victims of sexual and labor exploitation, during 2020.<sup>778</sup> Similarly, it notes the actions of the United Nations Office on Drugs and Crime (UNODC) and the launch of the prevention campaign "Internet in times of confinement" to prevent cybercrimes during the COVID-19 pandemic.<sup>779</sup>

401. Regarding the rights of **lesbian, gay, bisexual, trans, gender-diverse, and intersex (LGBTI) persons**, the Commission notes that Bill 5272, known as the "Bill for the Protection of Life and the Family" is still being processed in the Congress of the Republic, which in itself poses a threat to fulfillment of the State's international obligations in the area of equality and non-discrimination, since the definition of the concept of family provided in the bill contravenes inter-American standards in this area.<sup>780</sup> In addition, the Commission notes the absence of information regarding concrete initiatives for the prevention, investigation, punishment, and reparation of violence committed against LGBTI persons, or even the existence of databases that would allow for a systematic analysis of the phenomenon of violence and the State's reaction. In the same vein, the Commission expresses its particular concern about reports from civil society organizations regarding acts of discrimination and violence against LGBTI persons or persons perceived as such.<sup>781</sup>

402. In relation to the **rights of indigenous peoples**, the IACHR notes that the implementation of the practice of free, prior, and informed consultation, especially in the context of development projects that affect indigenous peoples, is a persistent concern. It also takes note of the information provided by the State on initiatives for the regulation of prior consultation and training of officials with respect to Convention 169 of the International Labor Organization.<sup>782</sup> The IACHR stresses the importance of indigenous peoples being consulted on these initiatives and of recognizing their own proposals and initiatives for the implementation of this right. It also issues a reminder that the jurisprudence of the inter-American human rights system regarding consultation and free, prior, and informed consent is also an important point of reference for policy proposals and training processes

<sup>777</sup> IACHR, Public Hearing "Situation of the Human Rights of Victims of Trafficking in Persons in the Region," 178th Regular Session, December 3, 2020.

<sup>778</sup> Public Prosecutor's Office, Prosecutor's Office against Trafficking in Persons, September 23, 2020; and Ministerio Público [Public Prosecutors' Office], Ministerio Público coordinó capturas en auto hotel utilizado para explotación sexual y trata de personas, August 30, 2020.

<sup>779</sup> UNODC, Launch of the prevention campaign "Internet in times of confinement", April 24, 2020.

<sup>780</sup> IACHR, , 2017, par. 408; IACHR, Advances and Challenges Toward the Recognition of the Rights of LGBTI Persons in the Americas, December 7, 2018, paras. 69, 70, 223, and 237; PublineWS, Diputados con opiniones encontradas sobre citación de PDH al Congreso, July 8, 2020; HRW, Violence and discrimination against LGBT people in El Salvador, Guatemala and Honduras and obstacles to asylum in the United States, Oct. 7, 2020; Agencia Presentes, Guatemala 2020: Pandemic, underreporting of violence and LGBT+ networks, Dec. 23, 2020.

<sup>781</sup> Agencia Presentes, Asesinaron a dos activistas LGBT en Guatemala, January 15, 2020; Agencia Presentes, Asesinan a trans de 32 años, March 23, 2020; Agencia Presentes, Balean a Joven Gay en Guatemala, April 7, 2020; Agencia Presentes, Doble Crimen de Odio de una pareja gay en Guatemala, May 21, 2020; Trans Day of Remembrance, Jennifer (sic) Avila Sumpala, June 1, 2020; Agencia Presentes, A security guard attempted to murder a youngtrans woman in Guatemala, July 27, 2020; Yahoo Noticias, Homophobic attack on couple investigated in Guatemala, Aug. 11, 2020; Soy502, PNC investigates agents for not helping couple in San Cristobal, Aug. 13, 2020; Agencia Presentes, Guatemala 2020: Pandemic, underreporting of violence and LGBT+ networks, Dec. 23, 2020.

<sup>782</sup> Report of the State of Guatemala on compliance with Recommendations contained in the Report "Situation of Human Rights in Guatemala" approved by the IACHR on December 31, 2017, pp. 24-26.



regarding prior consultation.<sup>783</sup> In 2020, the IACHR received troubling information about acts of violence and discrimination against members of indigenous peoples and their spiritual practices. On June 7, 2020, the IACHR condemned the violent death of Mayan spiritual guide Domingo Choc Che in San Luis Petén, who was burned alive after being accused of practicing witchcraft. The IACHR urged the authorities to investigate and punish that crime promptly and diligently, and to address the underlying causes related to intolerance and discrimination against spiritual and cultural practices.<sup>784</sup>

403. In relation to **persons deprived of liberty**, during the period under review, the IACHR noted the prevalence of high rates of pretrial detention in detention centers in the country. According to the information available, as of October 2020, the total number of persons deprived of liberty amounted to 25,723; of them, 13,096 are serving sentences and 12,627 are in pretrial detention (1,529 women and 11,098 men).<sup>785</sup> For its part, in the context of the COVID-19 pandemic, the Guatemalan State acknowledged that it faces significant challenges in this area, and stated that it examines all cases of pretrial detention to determine whether it is strictly necessary given the current public health emergency.<sup>786</sup>

404. Regarding the rights of **children and adolescents**, the PDH has pointed out that children and adolescents in Guatemala face "serious threats: malnutrition, child labor, pregnancy and violence, without the State being able to guarantee their social and special protection."<sup>787</sup> According to UNICEF data, one out of every two children in the country suffers from chronic malnutrition.<sup>788</sup> On the other hand, between January and November 2020, 86,831 pregnancies were registered in girls and adolescents between 15 and 19 years of age, as well as 4,105 pregnancies in girls between 10 and 14 years old, according to information from the Observatory on Sexual and Reproductive Health.<sup>789</sup> According to information from the National Registry of Persons (RENAP), girls and adolescents between 10 and 19 years of age gave birth to more than 30,000 children between January and September, 2020.<sup>790</sup>

<sup>783</sup> In this regard, see, IACHR. *Indigenous peoples, Afro-descendant communities and natural resources: human rights protection in the context of extractive and development activities*. OEA/Ser.L/V/II. (31 December 2015), pp. 90-112.

<sup>784</sup> IACHR, Twitter, June 9, 2020. <https://twitter.com/cidh/status/1270360307240665088?lang=en>.

<sup>785</sup> Update on persons deprived of liberty under the custody of the Penitentiary System. Twitter account of the General Directorate of the Penitentiary System (@DGSP). Published on October 5, 2020.

<sup>786</sup> Report of the State of Guatemala in response to the request for information for the preparation of the Annual Report of the Inter-American Commission on Human Rights (IACHR) 2020, Chapter IV, Section A, Ref. NV-OEA-M4-No.755-2020, October 2, 2020, p. 16.

<sup>787</sup> Office of the Human Rights Ombudsman [@PDHgt]. (October 1, 2020). *In the framework of the commemoration of Día del Niño@ the @PDHgt @JordanRodas expresses his concern because children and adolescents face serious violations of their #Human Rights. He recommends that @GuatemalaGob promote the creation of the National System for the Protection of Children and Adolescents* [Tweet]. Twitter. <https://twitter.com/PDHgt/status/1311661847309807616?s=20>

<sup>788</sup> UNICEF Guatemala, "The number of children in need of humanitarian assistance in Latin America and the Caribbean has more than tripled this year, says UNICEF," December 3, 2020. Republic of Guatemala, Press release, "Con desigualdades se conmemora el Día del Niño", October 1, 2020.

<sup>789</sup> OSAR, "Teenage Pregnancies ages 10-19 as of November 4, 2020," December 10, 2020.

<sup>790</sup> Republic of Guatemala, Press release, "Con desigualdades se conmemora el Día del Niño" [Children's Day is commemorated with inequalities], October 1, 2020. Office of the Human Rights Ombudsman [@PDHgt]. (October 1, 2020). *As part of the commemoration of Día del Niño@ the @PDHgt @JordanRodas expresses concern that children and adolescents face serious violations of their #Human Rights. He recommends that @GuatemalaGob promote the creation of the National System for the Protection of Children and Adolescents* [Tweet]. Twitter. <https://twitter.com/PDHgt/status/1311661847309807616?s=20>

405. The Pan American Health Organization (PAHO) and the World Health Organization (WHO) reported that homicides continue to be the main cause of death in children and youths between 10 and 24 years of age in Guatemala, a group that accounts for more than 32% of the population.<sup>791</sup> The National Civil Police (PNC) reported that 13% of suicides registered in the country are committed by children and adolescents (up to 18 years old). They also account for 13% of homicides.<sup>792</sup>

406. Regarding **women's rights**, the IACHR notes the prevalence of various forms of violence against women. According to the information received, as of October 25, 2020, the Public Prosecutors' Office (*Ministerio Público*) had registered 48,036 complaints of violence against women. Of the total, 17,774 involved physical violence, 26,188 psychological violence, and 144 economic/financial violence. 354 cases were classified as femicides. In addition, 6,317 complaints were reported for rape, 3,136 for sexual aggression, and 878 for other sexual crimes against women, children, and adolescents.<sup>793</sup> Meanwhile, according to data from the National Institute of Forensic Sciences (INACIF), as of October 24, 2020, 2,740 medical examinations of women victims of physical violence, 1,625 medical examinations for psychological violence, and 7,126 expert reports for the crime of sexual violence had been registered.<sup>794</sup>

407. The IACHR also received information regarding the intention of the Executive to replace SEPREM with a lower-ranking entity with more limited capacity for action and fewer resources. Currently, although SEPREM continues to operate, in a communication dated June 26, civil society organizations denounced a series of measures taken to weaken the institution.<sup>795</sup> In that regard, the State reaffirmed its commitment to promote an agenda to strengthen women. However, it pointed out that SEPREM was created through a governmental decision in 2000, and neither the Constitution nor legislation empowers the Executive to create a Presidential Secretariat through a governmental decision. The idea, therefore, was to establish a Presidential Commission at the highest level of the Executive. It also indicated that the Congress is still discussing the creation of the Ministry of Women's Affairs. Finally, the State indicated that the positions duly created in SEPREM, through the National Civil Service Office (ONSEC) are unalterable. With regard to ensuring its ability to operate in the context of the pandemic, the Executive, via the Council of Ministers, had issued a series of government

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<sup>791</sup> Prensa Libre, [Las cifras sobre violencia, suicidios y complicaciones en embarazos; principales causas de muertes en jóvenes guatemaltecos](#); PAHO and WHO: Informe La salud de los adolescentes y jóvenes en la región de las Américas, 2019.

<sup>792</sup> Office of the Human Rights Ombudsman [@PDHgt]. (October 1, 2020). *In the framework of the commemoration of Día del Niño@ the @PDHgt @JordanRodas expresses his concern because children and adolescents face serious violations of their #Human Rights. He recommends that @GuatemalaGob promote the creation of the National System for the Protection of Children and Adolescents* [Tweet]. Twitter. <https://twitter.com/PDHgt/status/1311661847309807616?s=20>

<sup>793</sup> Grupo Guatemalteco de Mujeres (GGM) and Red de la No Violencia contra las Mujeres (REDNOVI), Seguimiento sobre el cumplimiento de las recomendaciones Informe Situación de los Derechos Humanos en Guatemala, October 28, 2020, pp. 2ff.

<sup>794</sup> Of these evaluations, 82% were conducted on girls, adolescents, and young women from 0 to 30 years of age, which shows that sexual violence mainly affects young women. Grupo Guatemalteco de Mujeres (GGM) and Red de la No Violencia contra las Mujeres (REDNOVI), Seguimiento sobre el cumplimiento de las recomendaciones Informe Situación de los Derechos Humanos en Guatemala, October 28, 2020, pp. 2ff.

<sup>795</sup> According to the information received, on February 13, 2020, the head of SEPREM was reportedly dismissed and, since then, the Executive has allegedly kept the position vacant, which would limit SEPREM's operations. In addition, since April 1, 2020, 40 employees have been affected by the non-renewal of their contracts, which is the sole responsibility of the head of the Presidential Secretariat for Women. As a result, 14 departments, accounting for 63% of the national territory, reportedly do not have a SEPREM presence.. CEJIL, REDNOVI and Women's Link Worldwide, Incide Joven, Communication under Art. 41 of the IACHR on the closure of the Presidential Secretariat for Women-SEPREM Guatemala, June 26, 2020. On file with the IACHR.

decrees and presidential provisions to encourage and strengthen teleworking in order to ensure access to all necessary public services.<sup>796</sup>

408. In relation to **persons with disabilities**, the State reported on the measures adopted to counteract the effects of the COVID-19 pandemic at the "Dr. Federico Mora" Mental Health Hospital. According to the information presented by the State, various preventive steps have been taken and protocols have been defined to be followed in the event that patients present with symptoms or are diagnosed with COVID-19. On the other hand, the PDH has pointed out that, since the official delivery of the deinstitutionalization protocol (*ruta de la desinstitucionalización*) covering children and adolescents and older persons with disabilities, on August 6, 2019, little progress has been made with its implementation,<sup>797</sup> The Commission was also informed by civil society during the 177th session that Guatemala needs to develop a deinstitutionalization policy with a human rights approach so that persons with disabilities can live autonomously and in community,<sup>798</sup>

## GUYANA

- **General considerations**

409. In terms of **progress**, the IACHR highlights the measures of the State to contain the spread of the virus, plans to develop a National Plan of Action for children, and actions taken to combat child labor.

410. Regarding **challenges**, the IACHR is concerned about complaints of irregularities in the Presidential electoral process; a 26% increase in homicides; and acts of violence during the pandemic. The Commission also observes difficulties with providing access to online education for children and adolescents. With respect to LGBTI persons, the IACHR remains worried about the criminalization of same sex relations and forced "conversion therapy". The spread of COVID-19 among persons deprived of liberty and the indigenous communities are also major challenges for the State. Finally, the Commission reiterates its preoccupation with the continued enforcement of the death penalty in the country.

411. The State did not respond to the request for information sent to prepare this chapter.

- **Specific issues**

412. In response to the **COVID-19 pandemic**, the IACHR underscores the measures adopted to contain the spread of the virus. In this regard, the Commission observes that the Government initially announced a partial shutdown of its airports on March 17,<sup>799</sup> for a period of 14 days, which was then extended to September 16. On April 2, the President of the country announced

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<sup>796</sup> Report of the State of Guatemala in response to note 33720/CIDH/SE/MPCT- Art.41/8-2020 related to the request for information on Governmental Decisions 97-2020, 99-2020, and 10-2020, Ref. NV-OEA-M4-No.697-2020, September 10, 2020.

<sup>797</sup> Human Rights Ombudsperson, Follow-up on compliance with the recommendations of the Report on the Situation of Human Rights in Guatemala, 2017, received on October 24, 2020, p. 26.

<sup>798</sup> IACHR. Regional Hearing: Human Rights Situation of Persons with Disabilities during the COVID-19 Pandemic in the Americas, 177th Session, October 9, 2020.

<sup>799</sup> INews, Guyana to partially close airports amid Coronavirus outbreak, 17 March 2020.

the closure of all public places of entertainment as part of measures to contain the spread of the virus.<sup>800</sup> The Post Office was temporarily closed<sup>801</sup> and public transport operators were asked to comply with COVID-19 protocols.<sup>802</sup> Practical instructions were issued by the Chancellor of the Judiciary to protect judicial officers, staff, attorneys, and all court users.<sup>803</sup> Although permission is no longer needed to enter the country, a negative PCR test has to be presented and a mandatory quarantine is in place. As of December 2020, the curfew that began on April 5<sup>804</sup> remained in force, and the reopening of educational centers was subject to compliance with measures mandated by the State.<sup>805</sup>

413. Regarding **human rights institutions**, the IACHR observes that there is an Office of the Ombudsperson<sup>806</sup> and that it is a member of the Commonwealth Forum of National Human Rights Institutions. It also belongs to the Commonwealth Caribbean Association of Integrity Commissions and Anti-corruption bodies (CCAICACB).<sup>807</sup>

414. With respect to **democratic institutionalism**, the Commission observed that the citizens of the Cooperative Republic of Guyana went to the general elections on March 2, 2020.<sup>808</sup> Due to the broad geographical range of constituencies in Guyana, the counting of the votes took several days. The tallying process was interrupted when the Guyana Elections Commission (GECOM) declared a win for the incumbent party while votes were still being counted in one region.<sup>809</sup> According to the published results, the IACHR observed that the Opposition, the Peoples Progressive Party/Civic (PPP/C) was leading by 51,439 votes.<sup>810</sup> This led to a political impasse, which sparked civil unrest among the supporters of the opposition party.<sup>811</sup> On July 21, the IACHR called for a peaceful resolution to the crisis taking into account the political will of the people.<sup>812</sup> The Commission observed the key role that CARICOM played in the elections as an Observer.<sup>813</sup> The recount, which was validated by

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<sup>800</sup> INews Guyana, [President announces closure of bars, restaurants from 6 pm daily](#), 2 April 2020.

<sup>801</sup> Guyana Times, [All post offices to be closed from Thursday – GPOC](#), 8 April 2020.

<sup>802</sup> Stabroek News, [No reports of public transport operators violating COVID-19 rules](#), 12 April 2020.

<sup>803</sup> The Official Gazette (Extraordinary) of Guyana, [COVID-19 Emergency Directions 2020, No.1](#), 23 March 2020 & Notice: Supreme Court of Judicature, [Further updated Emergency Directions – COVID-19 Pandemic](#), 23 April 2020.

<sup>804</sup> World Aware, [COVID-19 Alert: Guyana Imposes Nationwide Nightly Curfew Through May 3](#), 5 April 2020.

<sup>805</sup> [Gaceta oficial de Guyana](#), November 30, 2020.

<sup>806</sup> Departamento de información pública del Gobierno de Guyana, “Situación del Covid-19”.

<sup>807</sup> The Commonwealth, “Las comisiones de integridad del Caribe forman un nuevo organismo del Commonwealth para combatir la corrupción”, June 25, 2015.

<sup>808</sup> Caribbean Elections, [Fact Sheet on Election Dates of Caribbean Countries](#), 10 August 2020.

<sup>809</sup> LoopTT, [OAS commends Guyana for election organization but recommends reforms](#), 3 March 2020.

<sup>810</sup> Stabroek News, [PPP/C leads APNU+AFC by 51,439 with Region Four still to be declared](#), 5 March 2020.

<sup>811</sup> The New York Times, [Crisis Deepens in Tiny Guyana, the World’s Newest Petro State](#), 6 March 2020.

<sup>812</sup> IACHR, [@CIDH]. (July 21, 2020). *La CIDH ha monitoreado la situación en el país derivada de las elecciones realizadas el 2 de marzo* [Tweet]. Twitter.

<sup>813</sup> CARICOM, [CARICOM election observers satisfied Guyana’s elections were free and fair](#), 5 March 2020.

CARICOM,<sup>814</sup> indicated a victory for the PPP/C,<sup>815</sup> which won 33 of the 65 seats,<sup>816</sup> and the leader of the PPP was declared the President of Guyana.<sup>817</sup> The Commission commends the decision of the new Government to reform the electoral system with the aim of safeguarding democracy in Guyana.

415. Regarding **citizen security**, police statistics show that there was a 26% increase in murders; this is, to 114 in 2019, compared to 84 homicides in 2018.<sup>818</sup> The Commission also observed the nationwide protests, unrest, and acts of violence against citizens and police after GECOM declared a win for the incumbent party. In that context, on March 7, it was reported that one man was shot dead, and police, women, and children were injured during protests and rioting.<sup>819</sup>

416. There was also a surge of comments posted on social media that were considered racist and menacing by Guyanese,<sup>820</sup> including a threat against the life of the Chairperson of GECOM,<sup>821</sup> and protesters burnt some public buildings.<sup>822</sup> Of great concern to the Commission, is the post-election murders of two Afro-Guyanese and the subsequent murders of two Indo-Guyanese in revenge. The IACHR takes note that civil society groups perceived the murders to be racially motivated and called on the Ethnic Relations Commission to “ease the mounting racial tension”.<sup>823</sup> The Commission commends the decision of the Government to launch a professional and impartial probe into the murders.<sup>824</sup>

417. Regarding **access to justice**, the Commission observes the actions that seek to expedite the processing of hearings and trials during the pandemic.<sup>825</sup> It was reported that the government will utilize containers retrofitted with air conditioners and the necessary technological and other physical infrastructure to litigate cases via virtual platforms at several detention centers.

<sup>814</sup> CARICOM Today, [Guyana electoral body to request return of CARICOM team to validate national recount](#), 9 April 2020.

<sup>815</sup> Newsroom, [Watershed moment as District Four recount results certified](#), 9 June 2020.

<sup>816</sup> Guyana Chronicle, [New gov't to take up 33 seats in National Assembly](#), 5 August 2020.

<sup>817</sup> Stabroek News, [Irfaan Ali officially declared President](#), 2 August 2020.

<sup>818</sup> Kaieteur News, [114 murders, 498 armed robberies in 2019 – But Force reports steady drop in serious crimes in five-year period](#), 16 November 2020.

<sup>819</sup> Kaieteur News, [Man shot dead during protests, rioting – Cops, women and children injured](#), 7 March 2020.

<sup>820</sup> Foreign Policy News, [Ethnic Conflict Threatens Democracy in Guyana](#), 26 March 2020, and Guyana Chronicle, [Leave racism behind for the General Elections 2020](#), 9 February 2020.

<sup>821</sup> Guyana Standard, [APNU/AFC activist confesses to assassination threat against GECOM Chair via fake FB profile](#), 15 July 2020.

<sup>822</sup> Action News Guyana, “Last night, a GECOM building in Wismar, Linden, Region 10, the CID building at Anna Regina and an abandoned GDF building also in Region 2 were destroyed by fire. This comes on the heels of the Lusignan prison fire, fire alarm inside the Ministry of Finance, attempted arson on the Umana Yana and the Suddie Magistrates Court a few days ago”, 14 July 2020, and Stabroek News, [Arson suspected in destruction of GECOM’s Wismar office](#), 15 July 2020.

<sup>823</sup> Global Voices, [Brutal murders in Guyana seen as ‘continuation of earlier ethnic upheavals’](#), 17 September 2020.

<sup>824</sup> Demerara Waves, [Guyana asks Britain, Caribbean Regional Security System to help probe killings; international Inquiry planned](#), 9 September 2020.

<sup>825</sup> Chronicle, [Prisoners to be tried in air-conditioned retrofitted containers at prisons](#), 5 October 2020.

There are also plans to equip police stations across the country, so as to enable defendants to appear at the stations for their first hearings.<sup>826</sup>

418. With regard to **children and adolescents**, the IACHR takes note of a number of challenges with respect to access to education, especially virtually, in the context of the COVID-19 pandemic. In this respect, the Ministry of Education initially announced the closure of schools for two weeks, starting on March 16.<sup>827</sup> Due to the poor distribution network of the Guyana Power and Light Company,<sup>828</sup> the lack of continuous electricity nationwide, and unreliable IT facilities, some students were reportedly unable to benefit from the Ministry's agreement with the Guyana Telegraph Company to provide free access to the Internet for primary schools.<sup>829</sup> The Commission further notes that apart from the Internet, the Ministry of Education has been utilizing other means of communication, such as Interactive Radio and Television, to provide instruction for those who have access to these media.<sup>830</sup> It also adopted a Jamaican initiative to write up school assignments on blackboards in several under-served communities.<sup>831</sup>

419. The IACHR observes that the government is developing a National Plan of Action for children, aimed at abolishing child labor in Guyana by the year 2025.<sup>832</sup> The Commission welcomes the announcement by the government to put measures in place to monitor and effectively address child labor.<sup>833</sup> In this context, the Ministry of Labor is currently reviewing labor laws with a view to amending them and and/or enacting new laws that will bring an end to the practice of child employment. It has also adopted a multi-sectoral approach to developing and reviewing existing protocols.<sup>834</sup> The Ministry of Labor plans to work with the police, the Ministry of Human Services and Social Security, the Childcare and Protection Agency, and the Ministry of Education<sup>835</sup> to review legislation such as the Employment of Young Persons and Children Act, the Occupational Health and Safety Act, the Education Act, and the Combating of Trafficking in Persons Act, with a view to identifying gaps and shortcomings.<sup>836</sup>

420. Regarding the rights of **lesbian, gay, bisexual, trans and gender diverse and intersex (LGBTI) persons**, the Commission notes with concern that Guyana is one of the States in the region that continues to criminalize consensual relationships between two adult persons of the same gender, under a type of sodomy law, punishable by imprisonment for life.<sup>837</sup> Likewise, the Commission has

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<sup>826</sup>Chronicle, [Prisoners to be tried in air-conditioned retrofitted containers at prisons](#), 5 October 2020.

<sup>827</sup> Department of Public Information, [Ministry of Education Novel Corona Virus – COVID-19 UPDATE](#), 13 March 2020.

<sup>828</sup> Guyana Chronicle, [Guyana to see several 'power outages' in the coming days](#), 4 May 2020.

<sup>829</sup> IADB, [Social Digital: Guyana COVID-19](#), 11 December 2020.

<sup>830</sup> IADB, [Social Digital: Guyana COVID-19](#), 11 December 2020.

<sup>831</sup> Guyana Chronicle, [Taking education to the communities](#), 27 October 2020.

<sup>832</sup> UNICEF, [Child labour policy and National Plan of Action: The Government of Guyana has taken a proactive role to eliminating child labour completely](#), 10 February 2020.

<sup>833</sup> INews Guyana, [Persons who employ children will be penalised – Labour Minister](#), 27 October 2020.

<sup>834</sup> INews Guyana, [Persons who employ children will be penalised – Labour Minister](#), 27 October 2020.

<sup>835</sup> INews Guyana, [Persons who employ children will be penalised – Labour Minister](#), 27 October 2020.

<sup>836</sup> UNICEF, [Child labour policy and National Plan of Action: The Government of Guyana has taken a proactive role to eliminating child labour completely](#), 10 February 2020.

<sup>837</sup> Penal Code, Part V, Title XXV, section 354.

received with great concern reports on the so-called “conversion therapies” or efforts to “correct” the sexual orientation and gender identity of LGBTI persons or persons perceived as such, in Caribbean States, including Guyana. These practices, which are generally carried out clandestinely, seriously violate human rights and can cause mental, physical, or sexual harm to the victims.<sup>838</sup>

421. Regarding **persons deprived of their liberty**, the Commission takes note of the riot on July 12 that erupted at the prison in Lusignan after drugs were found on the premises, and resulted in a fire that destroyed one section of the prison.<sup>839</sup> On September 17, it was reported that two detainees had tested positive for COVID-19 in this detention center, and unrest once more erupted since detainees were concerned about the spread of the virus.<sup>840</sup> By September 22 the virus had spread rapidly, infecting, according to the Minister of Health, an estimated 120 detainees at the Lusignan Prison.<sup>841</sup> The Minister of Health indicated that the Ministry was working to put measures in place to stop the spread of the virus, but overcrowding in some areas makes it difficult to implement such measures.<sup>842</sup> In the context of the pandemic the IACHR urges the State to adopt measures that will guarantee the health and integrity of this population and their families and reiterates its recommendation regarding the need to reduce overcrowding in detention centers as a measure to contain the pandemic.<sup>843</sup>

422. In relation to the **death penalty**, the Death Penalty Project informed the Commission that the number of persons condemned to death at the end of 2019 stood at 15 (two less than at the end of 2018). Guyana continues to retain the death penalty as a punishment on its statute books although it has not carried out any executions since 1997.<sup>844</sup> The IACHR recalls that the death penalty is a violation of the right to life, and that States must adopt measures to abolish it.

423. Regarding **human trafficking**, the Commission notes the possible implementation of a visa system to allow persons of Haitian origin to enter the country, reportedly in response to the detention of persons of Haitian origin presumed to be victims of human trafficking.<sup>845</sup> Likewise, public information in the public domain indicates that since 2018 there has been an increase in the number of victims of trafficking in persons of Venezuelan nationality compared to previous years. Thus, between January and June 2020, 22 complaints of human trafficking were filed, in which 43 people of Venezuelan origin were identified as victims.<sup>846</sup> In addition to the above, it has been reported that even when Venezuelans have regular residence permits valid for three months, these do not allow

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<sup>838</sup> IACHR, Hearing on the Situation of the Human Rights of LGBTI Persons in the Caribbean, Session No. 178, December 8, 2020; OHCHR, 'Conversion therapy' can amount to **torture** and should be banned, says UN expert, July 18, 2020.

<sup>839</sup> Deutsche Welle, Guyana: quince reclusos heridos en amotinamiento en una cárcel, 13 July 2020.

<sup>840</sup> Stabroek News, Unrest erupts at Lusignan prison after two positive COVID tests, 17 September 2020.

<sup>841</sup> Stabroek News, 120 Lusignan inmates test positive for COVID-19 – Anthony, 22 September 2020.

<sup>842</sup> Stabroek News, 120 Lusignan inmates test positive for COVID-19 – Anthony, 22 September 2020.

<sup>843</sup> IACHR, Press Release, No. 066/20, The IACHR urges States to guarantee the health and integrity of persons deprived of liberty and their families in the face of the COVID-19 pandemic, 31 March, 2020.

<sup>844</sup> Death Penalty Project on 9 December 2020.

<sup>845</sup> Kaieteur news, Guyana may introduce visa system for Haiti soon, November 25, 2020.

<sup>846</sup> Kaieteur news, Guyana may introduce visa system for Haiti soon, November 25, 2020.



them to access formal jobs, a situation that makes them potential victims of exploitation or trafficking.<sup>847</sup>

424. With regard to **indigenous peoples**, the IACHR takes note that civil society groups and the South Rupununi District Council (SRDC), which is the governance body for 21 Wapichan villages, repeatedly emphasized that the COVID-19 outbreak among the indigenous communities is linked to mining in the areas where they live, but despite pleas by civil society groups and the SRDC to the National COVID-19 Task Force (NCTF) for assistance, mining continues in those areas.<sup>848</sup>

## HAITI

- **General considerations**

425. As regards **progress**, the IACHR highlights the actions taken to contain the spread of COVID-19 and the increase in the birth registration rate of children and adolescents under five years of age in the country. The Commission also welcomes the presidential decision to include sexual orientation, real or perceived, as a category protected against discrimination.

426. With regard to challenges, the IACHR notes with grave concern the institutional crisis involving the term of the presidential mandate and the cases of alleged excessive use of force by the National Police in repression of peaceful demonstrations. In addition, the Commission is concerned about threats against the staff of the Citizen Protection Office (OPC) and the obstacles faced by women and girls seeking to report situations of sexual harassment, domestic violence, and other forms of gender-based violence. Similarly, the Commission continues to be concerned about the persistence of the *restavek* system, violence against LGBTI persons, and the high rates of pretrial detention (79%) in the prison population.

427. The State did not respond to the request for information sent for the preparation of this chapter.

- **Specific topics**

428. Regarding the **COVID-19** pandemic, the IACHR highlights the measures adopted by the State to contain the spread of the virus. Following the first case of infection, recorded on March 19, 2020, a health emergency was declared throughout the national territory, requiring quarantining, a night-time curfew, partial closure of land and air borders, as well as the mandatory use of masks in public places.<sup>849</sup> The borders were opened on July 1, 2020, while the state of emergency was lifted on July 29. At the same time, in April 2020 the State ordered the closure of educational centers, which re-opened in August 2020.<sup>850</sup> The IACHR also learned about the training of 2,800 community health

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<sup>847</sup> Caribbean News Service, Venezuelan migrants in Guyana need 'easier access to work permits,' says UN migration office, December 3, 2020.

<sup>848</sup> Guyana Chronicle, Human rights body calls for halt on mining in Wapichan territory, 28 July 2020, and Stabroek News, GHRA calls for greater inclusion of indigenous leaders in COVID-19 decisions, 21 July 2020.

<sup>849</sup> BBC, [Coronavirus: Haiti confirms its first two cases of covid-19](#), March 20, 2020.

<sup>850</sup> Haiti Ministry of Communication, "[Press release from the MENFP regarding the relaunch of school activities](#)," July 3, 2020.

workers with the cooperation of the Pan American Health Organization,<sup>851</sup> and about the implementation of a program for distributing masks throughout the country.<sup>852</sup>

429. Despite the above, according to information from the United Nations Office for the Coordination of Humanitarian Affairs, the COVID-19 pandemic has affected Haiti's health system, increasing the risk of contracting other preventable epidemic diseases.<sup>853</sup> The Commission also notes with concern the worsening of food security in the country as a result of the border closures,<sup>854</sup> as well as the lack of basic services in some sectors of the population, such as drinking water and sanitation, both of which are essential for reducing COVID-19 infections.<sup>855</sup>

430. In the area of **democratic institutions**, the IACHR has been closely monitoring the profound institutional crisis and political instability that Haiti is experiencing. In January 2020, in the context of the tensions caused by the non-renewal of the parliament's mandate, the IACHR reiterated the need to resume political dialogue as a key element to preserve democratic institutions and avoid the risk of public officials refusing to leave office.<sup>856</sup> The Commission also learned of increased political tensions due to the political opposition's call for the end of President Jovenel Moïse's mandate in February 2021 and the establishment of a transitional government.<sup>857</sup> On the other hand, the IACHR takes note of the statements made by public authorities expressing their intention to launch the electoral process in 2021.<sup>858</sup> In this regard, and considering the risk of a worsening constitutional crisis, the IACHR recalls that political conflicts must be resolved in accordance with constitutional and legal standards, and reminds the State of its duty to protect the human rights of all persons under its jurisdiction and to refrain from any excessive use of force and abuse of power.

431. Regarding **human rights institutions**, Haiti has a Citizen Protection Office (OPC), a national, independent, and autonomous institution responsible for the protection of human rights. However, its highest authority has repeatedly expressed concern for the safety of its personnel, as it is constantly threatened. In this regard, during the month of July, the director of the office received direct threats against his life, after an administrative sanction was announced against the government commissioner of the town of Jeremie. This was reportedly not the first time that threats have been made against the director of the office.<sup>859</sup> For its part, the Commission notes that the Network of

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<sup>851</sup> Pan American Health Organization, PAHO trains 2,800 community health workers in Haiti for COVID-19 Response - PAHO/WHO, August 12, 2020.

<sup>852</sup> Ministry of Communication of Haiti, More than 9,000,000 masks already distributed in the country three months after the introduction of the first cases of coronavirus in the country, June 15, 2020.

<sup>853</sup> United Nations Office for the Coordination of Humanitarian Affairs, Haiti- COVID-19 FlashUpdate No 8, 31 August 2020.

<sup>854</sup> United Nations Office for the Coordination of Humanitarian Affairs, Haiti- COVID-19 FlashUpdate No 8, August 31, 2020; United Nations Integrated Office in Haiti (BINUH), Security Council, Report: "United Nations Integrated Office in Haiti, Report of the Secretary-General," September 25, 2020, p. 45.

<sup>855</sup> Le Devoir, L'inégalité des chances à l'école en Haïti aggravated by COVID-19, August 9, 2020.

<sup>856</sup> IACHR, Press Release 11/20, IACHR supports Haiti in current political and Institutional Scenario, Washington D.C., January 22, 2020.

<sup>857</sup> BINUH, "United Nations Integrated Office in Haiti, Report of the Secretary-General", 25 September 2020, pp. 4 and 5.

<sup>858</sup> DW, Moïse promises elections in Haiti "in the coming months", Oct. 2, 2020.

<sup>859</sup> Vant Bèf info, "Citizen Protection Office concerned about the safety of its staff", July 5, 2020.

National Institutions for the Promotion and Protection of Human Rights in the Americas (RINDHCA) called on the Haitian government to respect the independence of the institution.<sup>860</sup>

432. With regard to **citizen security**, the Commission received information on the large number of people who have reportedly been victims of violence and insecurity in the Port-au-Prince metropolitan area. In particular, murders<sup>861</sup> and kidnappings for ransom<sup>862</sup> have been reported, as well as violent actions by armed gangs.<sup>863</sup> This picture of insecurity in the country has also been the subject of complaints by civil society.<sup>864</sup> The IACHR notes with concern the State's failure to protect its population and to address these acts of violence. The Commission also notes with concern the information it has received regarding excessive use of force by the Haitian National Police to repress peaceful demonstrations.<sup>865</sup>

433. With respect to **access to justice**, the Citizen Protection Office has denounced the impunity surrounding armed conflicts between gangs and the need to arrest those involved. According to available information, both those armed conflicts between gangs and the impunity of those involved heighten insecurity in the country, resulting in acts of looting and arson of homes in the affected regions, forcing dozens of families to abandon their homes.<sup>866</sup> In addition, the IACHR expresses its concern about the obstacles faced by women and girls in reporting situations of sexual harassment, domestic violence, and other forms of gender-based violence in Haiti. According to *Human Rights Watch*, some victims suffer reprisals when they file complaints and this causes them to drop the charges.<sup>867</sup> The Commission considers that this situation ends up promoting a culture of impunity and discourages victims from seeking justice.

434. In addition, regarding **women's rights**, the Commission is concerned about reports of gender-based violence, including intimidation and violence against women political leaders. In this regard, the Commission is aware of threats against Edmonde Beuzile, allegedly by criminal gangs that harass women opposition leaders.<sup>868</sup>

435. Regarding **persons in human mobility**, the most recent UNHCR figures indicate that by the end of 2019, there were 26,746 refugees of Haitian origin outside the country and 65,699 cases

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<sup>860</sup> Rhinews, "[RINDHCA urges Haitian government to respect the independence of the Office of Citizen Protection \(OPC\)](#)", September 10, 2020.

<sup>861</sup> In this regard, Listin Diario, Press Release: "[Violence and insecurity cause at least 307 deaths in 5 months in Haiti](#)", September 11, 2020; Vant Bèf Info, Press Release: "[Haïti-Insécurité : Les corps sans vie de 4 personnes découverts à Port-au-Prince](#)", November 24, 2020.

<sup>862</sup> Le Nouvelliste, Nota de Prensa: "[The bandits kidnap, ransom and free without being worried](#)", November 30, 2020.

<sup>863</sup> RNDDH, Informe Violencia en Cité Soleil: "[Assassinations, Ambushes, Hostage-taking, Raids, Rapes, Fires, Raids: The authorities in power have installed terror in Cité Soleil](#)", August 13, 2020, p. 23.

<sup>864</sup> Vant Bèf Info, Nota de prensa: "[Haiti-Insecurity: Sit-in against insecurity in Port-au-Prince](#)", November 26, 2020.

<sup>865</sup> Le Nouvelliste, Nota de prensa: "[Repression of demonstrations against insecurity: Marie-Yolène Gilles condemns the behavior of police officers](#)" December 1, 2020.

<sup>866</sup> Haiti Libre, *Haiti - Justice* : The OPC demands the arrest of the individuals involved in the clashes in Bel-Air and Lower Delmas, September 3, 2020.

<sup>867</sup> Human Rights Watch, [Haiti must end sexual abuse in soccer](#), November 18, 2020.

<sup>868</sup> El Mostrador, [Grupos organizados amenazan de muerte a mujeres líderes políticas opositoras en Haití](#), September 8, 2020.

of asylum requests pending resolution.<sup>869</sup> In addition, the Commission continued to observe the situation of Haitians forced to move to other countries as a result of human rights violations in Haiti.<sup>870</sup> According to public information, in September 2020, 94 Haitian migrants, including 33 children and adolescents, who were seeking to reach Panama, were rescued by Colombian fishermen.<sup>871</sup> In October 2020, 23 Haitians trying to reach the United States were intercepted by the U.S. Coast Guard.<sup>872</sup>

436. With regard to **trafficking in persons**, the Commission takes note of the report of the Haitian Observatory on Trafficking in Persons, which calls on Haitian authorities to pay attention to cases of trafficking in children and adolescents at various border points, particularly in the cities of Belladère, Haiti, and Comendador in the Dominican Republic. Likewise, the IACHR welcomes the actions taken by authorities of the Brigade for the Protection of Minors and their interception of persons transporting children between the ages of 3 and 9 across the border in Belladère.<sup>873</sup>

437. Regarding the rights of **children and adolescents**, the Commission was apprised of a 5 percentage point increase (from 80 to 85 percent) in the number of children under 5 whose birth is registered with state agencies. According to information from the United Nations Children's Fund (UNICEF), the IACHR notes with concern that Haiti continues to be the State with the lowest rate of child registration in the Americas.<sup>874</sup> The IACHR is also worried about the persistence of the *restavek* system, under which a child in Haiti is sent by its parents to work for a host household as a domestic servant because the parents lack the resources required to support the child, especially since the closure of educational centers and confinement due to the health emergency has aggravated the conditions of those girls and boys subjected to forced labor and other types of abuse, harassment, and forms of violence,<sup>875</sup>

438. Regarding the rights of **lesbian, gay, bisexual, trans, gender diverse and intersex (LGBTI)** persons, the Commission welcomes the presidential decision to include sexual orientation, real or perceived, as a category protected against discrimination.<sup>876</sup> However, the IACHR regrets the social demonstrations against this norm, as well as the discriminatory and pejorative remarks against

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<sup>869</sup> UNHCR, [Global Trends 2019](#), p. 79.

<sup>870</sup> IACHR, [Annual Report. Chapter IV.A Human Rights Developments in the "Haiti" Region](#), 2019, par. 371. Cronkite News, [Haitians make long continental transit in hope for a better future](#), July 20, 2020.

<sup>871</sup> BBC News, [Colombian fishermen rescue 94 Haitian migrants adrift at sea](#), September 30, 2020.

<sup>872</sup> Miami Herald, [Haitian migrants detained at sea off Palm Beach, Turks and Caicos on same day](#), October 11, 2020.

<sup>873</sup> AlterPresse, [Haiti-Human Rights: The Haitian Observatory on Trafficking and Human Smuggling denounces a case of child trafficking at the border point of Belladère/Comendador](#), August 20, 2020.

<sup>874</sup> UNICEF, ["Strengthening Birth Registration in Grand'Anse"](#), February 11, 2020.

<sup>875</sup> Le Nouvelliste, [Les enfants en situation de restavèk au temps de la COVID 19](#), July 14, 2020.

<sup>876</sup> [Projet De Loi, Portant Nouveau Code Pénal, Haiti, June 2020, Articles 289, 306, 362, and 980](#); Voice of America, [In Haiti, More LGBT-friendly Penal Code Prompts Outcry from Pulpit](#), July 23, 2020; The Haitian Times, [Haiti's LGBTQ demand rights, say time is now](#), September 16, 2020; The Haitian Times, [Stuck Between Church, State, and Family - LGBTIQ People in Haiti](#), October 6, 2020.

LGBTI persons used to justify their opposition.<sup>877</sup> The Commission pointed out that those demonstrations promoted discrimination and violence against LGBTI persons.<sup>878</sup>

439. In this regard, the Commission has received alarming information about acts of violence against LGBTI persons or persons perceived as such; thus, there were reports of at least six disappearances and of several murders of LGBTI persons, such as the murder of a trans police officer, Mickerlange François, and that of the makeup artist, Maïkadou Rosier.<sup>879</sup> In addition to the above, the IACHR reiterates the duty of the State of Haiti to prevent, investigate, prosecute, and punish acts of discrimination and violence carried out against LGBTI persons or persons perceived as such, as there has been no news of progress in the investigation into the death of activist Charlot Jeudy on November 25, 2019.<sup>880</sup>

440. The Commission has also received troubling information about efforts to correct the sexual orientation and gender identity of LGBTI persons or persons perceived as such, called "conversion therapies" and generally carried out clandestinely in the Caribbean States, including Haiti. These so-called "therapies" seriously violate human rights and cause mental, physical, or sexual harm to their victims.<sup>881</sup>

441. Regarding the rights of **persons deprived of their liberty**, the IACHR expresses its concern over the large number of persons deprived of their liberty under prolonged pretrial detention. According to information from the *Réseau Nationale de Défense des Droits Humains*, as of October 20, 2020, the prison population amounts to 11,131 persons, of whom 8,809 (79.14%) are still awaiting trial.<sup>882</sup> The Commission has also learned that the precarious conditions of detention in the Haitian prison system persist, including high levels of overcrowding, poor sanitary conditions, reduced food rations and malnutrition, as well as allegations of torture and ill-treatment.<sup>883</sup>

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<sup>877</sup> Voice of America, [Haiti's New Penal Code Under Fire](#), July 3, 2020; Voice of America, [In Haiti, More LGBT-friendly Penal Code Prompts Outcry from Pulpit](#), July 23, 2020; France 24, [Thousands Protest in Haiti Against Penal Code Punishing Sexual Discrimination](#), July 27, 2020;

<sup>878</sup> IACHR, [Advances and challenges towards the recognition of the rights of LGBTI persons in the Americas](#), December 7, 2018, paras. 15 and 253; The Haitian Times, [Haiti's LGBTQ demand rights, say time is now](#), September 16, 2020; The Haitian Times, [Stuck Between Church, State and Family - LGBTIQ People in Haiti](#), October 6, 2020; 76 Crimes, [Haiti: Violence keeps raging a year after Charlot Jeudy's death](#), October 22, 2020.

<sup>879</sup> The Haitian Times, [Haiti's LGBTQ demand rights, say time is now](#), September 16, 2020; The Haitian Times, [Stuck Between Church, State and Family - LGBTIQ People in Haiti](#), October 6, 2020; 76 Crimes, [Haiti: Violence keeps raging a year after Charlot Jeudy's death](#), October 22, 2020; 76 Crimes, [LGBT+ community mourns a transphobic murder in Haiti](#), December 8, 2020.

<sup>880</sup> 76 Crimes, [Haiti: Violence keeps raging a year after Charlot Jeudy's death](#), October 22, 2020; 76 Crimes, [Haiti: A year later, a cry for justice for LGBTI activist Charlot Jeudy](#), December 8, 2020; 76 Crimes, [LGBT+ community mourns a transphobic murder in Haiti](#), December 8, 2020.

<sup>881</sup> IACHR, [Hearing on the Situation of the Human Rights of LGBTI Persons in the Caribbean](#), Session No. 178, December 8, 2020; The Haitian Times, [Stuck Between Church, State and Family - LGBTIQ People in Haiti](#), October 6, 2020; OHCHR, ["Conversion therapies" can amount to forms of torture and should be banned, says UN expert](#), July 13, 2020.

<sup>882</sup> *National Network for the Defense of Human Rights, Preparation for the Social Reinsertion of Prisoners: Diagnosis and Recommendations*, 27 October 2020, p. 2; UNIFEM, United Nations, Security Council, Report: "United [Nations Integrated Office in Haiti, Report of the Secretary General](#)," 25 September 2020, p. 16.

<sup>883</sup> [Center for Analysis and Research in Human Rights \(CARDH\)](#), Open Letter: "Situation Carcérale en Haïti, Négation des droits Humains et Révulsion," September 30, 2020; Vant Bêf Info, Press release: "[Haiti-Justice: La vie des prisonniers au Pénitencier national, un enfer sur terre](#)", August 9, 2020; National Human Rights Defense Network, [RNDDH Report on the evolution of the human rights situation in Haiti in the context of COVID-19](#), Haiti, May 5, 2020, par. 43.

442. In 2020, the Rapporteurship observed ongoing attacks and threats to the press and media in Haiti, which are part of a social and political crisis of great magnitude. The IACHR and its Rapporteurship also note obstacles to the pursuit of justice in crimes against freedom of expression. Thus, for example, in November 2020, the judge investigating the murder of Radio Méga and Radio Panic FM journalist Néhémie Joseph in October 2019 withdrew from the case, justifying his decision on security grounds.<sup>884</sup> According to available information, only one individual has been arrested since the reporter's murder.<sup>885</sup>

## HONDURAS

- **General considerations**

443. With regard to **progress** during 2020, given the COVID-19 pandemic, the IACHR highlights the measures taken to contain the spread of the virus. The Commission also continued to observe a reduction in the homicide rate and some progress in terms of access to justice, particularly in the investigation of crimes committed against LGBTI persons. The Commission also commends measures implemented by the State to reduce violence against women in the context of the COVID-19 pandemic.

444. In relation to ongoing **challenges**, during 2020 the Commission observed with concern the persistence of acts of violence against human rights defenders, particularly against indigenous persons and defenders of land, territory, and the environment. Likewise, the situation of persons deprived of liberty continued to be of special concern to the IACHR during 2020, especially in the context of the COVID-19 pandemic and the levels of overcrowding.

445. The State responded to the request for information sent for the preparation of this chapter.<sup>886</sup>

- **Specific topics**

446. Regarding the **COVID-19 pandemic**, the first two cases were confirmed in Honduran territory on March 11.<sup>887</sup> However, already on February 10, before the first cases were reported, the government of Honduras issued Executive Decree (PCM-005-2020), declaring a Health Emergency throughout the national territory as a measure to strengthen surveillance, prevention, and control actions and to ensure proper care of people who could be infected by the coronavirus.<sup>888</sup> Following

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<sup>884</sup> Trip Fourmi. *Le juge instructeur, Samson Jean s'est déporté du dossier de Néhémie Joseph*, November 24, 2020; Zoom Haiti News, *Le juge d'instruction Samson Jean se déporte du dossier de l'assassinat du journaliste Néhémie Joseph*, November 23, 2020; Le Nouvelliste, *Le juge Samson Jean s'est déporté du dossier de l'assassinat de Néhémie Joseph*, November 23, 2020; Plaform News. *Le juge instructeur, Samson Jean s'est déporté du dossier de Néhémie Joseph*, November 25, 2020.

<sup>885</sup> Haiti Tweets, *L'assassin présumé du journaliste Néhémie Joseph, arrêté, January 17, 2020*; Gazette Haiti, *Arrestation du présumé assassin du journaliste Néhémie Joseph en République Dominicaine, January 17, 2020*; Haiti Standard, *République dominicaine: le présumé assassin du journaliste Néhémie Joseph arrêté et remis aux autorités haïtiennes, January 17, 2020*; Radio Televisión 2000, *Haïti-RD : arrestation de 2 suspects dans l'assassinat du Journaliste Néhémie Joseph, January 18, 2020*.

<sup>886</sup> The IACHR received the response from the State of Honduras on October 15, 2020.

<sup>887</sup> Government of Honduras, Office of Communications and Presidential Strategy, *What is Covid?*, 2020.

<sup>888</sup> United Nations. *Humanitarian Response Plan COVID-19, Honduras*. May 2020.

the announcement of the first cases, the State also activated its National Risk Management System (SINAGER) to support the Ministry of Health in the management of the health emergency and launched the Coronavirus Case Containment and Response Plan (COVID-19).<sup>889</sup>

447. The Commission was informed about the "Operation Honduras Solidarity" project, established by Executive Decree PCM-025-2020, geared to supplying food rations from the basic food basket to at least 800,000 families affected by the COVID-19 pandemic.<sup>890</sup> On March 17, through the Permanent Contingency Commission - COPECO and the United Nations System in Honduras, the government activated the Humanitarian Country Team (EHP) to complement national efforts in the response and ensure that humanitarian assistance is provided in a well-coordinated manner.<sup>891</sup>

448. Four months after the beginning of the pandemic, national media reported that 26 of the 28 public hospitals earmarked to receive patients with COVID-19 did not have enough biosecurity equipment and beds to meet the demand, forcing many sick patients to wait for hours in chairs before being treated.<sup>892</sup> Also, according to civil society organizations, there was a lack of transparency in the public procurement processes conducted during the health emergency. They denounced fraudulent over-pricing, negligence by the authorities in the purchase of deficient biosecurity equipment, and abuses in the decision-making process.<sup>893</sup>

449. The State, for its part, reported that the total capacity of medical care centers has been increased and, as of June 28, 2020, there were 1,100 beds to care for COVID-19 patients with mild and moderate conditions. The Temporary Care Centers have room for 957 patients.<sup>894</sup>

450. According to information provided by the United Nations in its response plan for the country in the context of the pandemic, the confinement policies have impaired the enjoyment of human rights, especially in vulnerable populations such as pregnant women, children under two years of age, and displaced persons, among other groups.<sup>895</sup> Likewise, they allegedly particularly affected populations living in conditions of marginalization and extreme poverty in urban areas and reportedly increased risks of violence and sexual abuse.<sup>896</sup>

451. Regarding **human rights institutions**, the State reported having presented its third Universal Periodic Review Report to the United Nations Human Rights Council in January 2020. It then substantiated it in November 2020.<sup>897</sup>

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<sup>889</sup> Agencia EFE, [Honduras will open its land borders between October 9 and 12](#), October 1, 2020.

<sup>890</sup> Government of the Republic of Honduras, Oficio No. SSDH-O-PROMO-072-202, Report on Chapter IV, Volume 1, Section "A" of the Rules of Procedure of the Inter-American Commission on Human Rights, October 15, 2020, para. 55.

<sup>891</sup> United Nations, [Humanitarian Response Plan COVID-19, Honduras](#), May 2020.

<sup>892</sup> Prensa Latina, [Lack of resources and personnel aggravates health crisis in Honduras](#), July 6, 2020.

<sup>893</sup> Criterio HN, [Honduras: Corruption and misery in the health system cause death and despair](#), August 10, 2020.

<sup>894</sup> Government of the Republic of Honduras, Oficio No. SSDH-O-PROMO-072-202, Report on Chapter IV, Volume 1, Section "A" of the Rules of Procedure of the Inter-American Commission on Human Rights, October 15, 2020, par. 61.

<sup>895</sup> United Nations, [Humanitarian Response Plan COVID-19, Honduras](#), May 2020.

<sup>896</sup> United Nations, [Humanitarian Response Plan COVID-19, Honduras](#), May 2020, p. 9.

<sup>897</sup> Government of the Republic of Honduras, Oficio No. SSDH-O-PROMO-072-202, Report on Chapter IV, Volume 1, Section "A" of the Rules of Procedure of the Inter-American Commission on Human Rights, October 15, 2020, par. 17.



452. The Commission, for its part, learned about the selection of the new National Human Rights Commissioner and received information on alleged irregularities in the selection process, which was carried out without conducting interviews and public hearings as required by law.<sup>898</sup> In light of this, the OHCHR in Honduras urged the State to ensure the independence and autonomy of CONADEH through a transparent and participatory appointment process and to resume the public hearings that were suspended in March 2020 due to COVID-19.<sup>899</sup>

453. With respect to **democratic institutional**ity, the Commission observed that during 2020, there were protests mainly due to the economic and health crisis resulting from the COVID-19 pandemic. According to available information, between March 23 and June 22, 2020, at least 19 demonstrations were repressed by the Police and the Army.<sup>900</sup> According to information from civil society, between March 23 and April 2, there were at least 83 social protests linked to the emergency generated by COVID-19, in 12 departments of Honduras.<sup>901</sup> For its part, the Office of the United Nations High Commissioner for Human Rights in Honduras (OHCHR) condemned the actions of the National and Municipal Police on September 15 when they launched tear gas and water with chemicals against those who were demonstrating on the occasion of Independence Day.<sup>902</sup>

454. The Commission also learned of new acts of corruption that could have an impact on the enjoyment of human rights, particularly the right to health. According to public information, in the context of the COVID-19 pandemic, a corruption scandal was triggered by overpriced purchases of mobile hospitals, biosecurity material and ventilators, in addition to the loss of thousands of COVID-19 tests.<sup>903</sup> In response to this, on August 12, 2020, people took to the streets in Tegucigalpa to protest alleged corruption in the management of funds allocated to combat the pandemic.<sup>904</sup> In this regard, the Commission notes that Honduras is considered the country with the second highest perception of corruption in the Americas.<sup>905</sup> That being so, the Commission regrets that on January 17, 2020, the State of Honduras decided not to renew the agreement with the OAS Mission to Support the Fight against Corruption and Impunity in Honduras (MACCIH).<sup>906</sup>

<sup>898</sup> Proceso Digital, Without interviews or hearings, NC elects Blanca Izaguirre as new human rights commissioner, December 21, 2020.

<sup>899</sup> OHCHR, OHCHR urges that the independence and autonomy of CONADEH be ensured through a transparent and participatory appointment process for its head, 22 December 2020.

<sup>900</sup> Information provided to the IACHR by the Association for Democracy and Human Rights (ASOPODEHU) of Honduras. Emergency decrees and restrictions against freedom of expression, right to protest, and other human rights. July 16, 2020, on file with the IACHR.

<sup>901</sup> C-Libre, Situation of freedom of expression and access to public information: Hunger protests.

<sup>902</sup> Tiempo Digital, UN condemns violence in demonstrations and asks Honduras for investigation, Sept. 16, 2020; Honduras TV, UN calls for thorough investigations into repression in Sept. 15 protests in Honduras, September 16, 2020; Defensores en línea, Por brutal represión policial joven estuvo a punto de perder la vista, September 16, 2020.

<sup>903</sup> DW, Honduras protests in the midst of pandemic: "Where is the money?", August 13, 2020; France24, Honduras: corruption denounced in purchase of mobile hospitals, September 15, 2020.

<sup>904</sup> DW, Honduras protests in the midst of pandemic: "Where's the money?", August 13, 2020.

<sup>905</sup> Criterio HN, Honduras sigue punteando en corrupción, según Transparencia Internacional, January 23, 2020; La Tribuna, Transparencia Internacional: Empeoran los índices de corrupción en Honduras, January 24, 2020.

<sup>906</sup> OAS, OAS General Secretariat communiqué on termination of MACCIH, January 17, 2020; DW, Corruption plunges Honduras into poverty and inequality, February 28, 2020; CNN, Government does not renew Maccih agreement with OAS, January 18, 2020.

455. As for **citizen security**, the State reported having reduced violence rates by 60% and that, according to statistics provided by the Online Police Statistical System (SEPOL), 61 municipalities reported no cases of homicide.<sup>907</sup> The Commission notes that during 2020, the downward trend in the homicide rate was maintained. According to information from the State, the year 2020 closed with a reduction in the homicide rate from 43.4 per hundred thousand inhabitants in 2019 to 37.57.<sup>908</sup>

456. The State also indicated that it has provided professional technical and human rights training to police officers, in accordance with the National Police Strengthening Plan, and expects to have trained at least 26,183 police officers by 2022.<sup>909</sup>

457. However, the Commission observed that during 2020 no concrete measures were implemented to relieve the Armed Forces of public security duties. According to information from CONADEH, the State of Honduras still has the armed forces performing public security functions, including in the Employment and Economic Development Zones.<sup>910</sup> The IACHR recalls that the maintenance of internal public order and citizen security should be primarily reserved to civilian police forces, and when, exceptionally, the Armed Forces intervene in security tasks, their participation should be extraordinary, subordinate and complementary, regulated and supervised.<sup>911</sup> It is therefore necessary that the State of Honduras adopt concrete and effective measures to bring about the gradual withdrawal of the Armed Forces from citizen security tasks.

458. As regards access to justice, the State reported having developed the Institutional Strategic Plan 2017-2021, with five “strategic axes,” containing actions to provide transparent, impartial, modern, and effective justice services to promote security and trust among Hondurans. However, according to information from CONADEH, Honduras still does not have an access to justice plan.<sup>912</sup>

459. The Commission was also informed about the publication of a new Penal Code in Honduras. Various civil society organizations expressed their disagreement with it because they consider that this new Code favors corruption, drug trafficking, and impunity by reducing the penalties and statute of limitations for these crimes.<sup>913</sup> For its part, the Commission considers that this new Penal Code contains excessive restrictions to freedom of expression and freedom of the press, as well

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<sup>907</sup> Government of the Republic of Honduras, Oficio No. SSDH-O-PROMO-072-202, Report on Chapter IV, Volume 1, Section "A" of the Rules of Procedure of the Inter-American Commission on Human Rights, October 15, 2020, par. 49.

<sup>908</sup> Secretaría de Estado en el Despacho de Seguridad, Dirección General de la Policía Nacional, Dirección de Planeamientos, Procedimientos Operativos y Mejora Continua, Departamento de Estadísticas, Histórico Tasas de Homicidios, accessed December 9, 2020.

<sup>909</sup> Government of the Republic of Honduras, Oficio No. SSDH-O-PROMO-072-202, Report on Chapter IV, Volume 1, Section "A" of the Rules of Procedure of the Inter-American Commission on Human Rights, October 15, 2020, par. 51.

<sup>910</sup> CONADEH, Informe de Seguimiento a Recomendaciones del Informe sobre la Situación de los Derechos Humanos en Honduras, received October 23, 2020.

<sup>911</sup> I/A Court H.R., Case of Alvarado Espinoza et al. Case of Alvarado Espinoza et al. v. Mexico. Merits, Reparations and Costs. Judgment of November 28, 2018. Series C No. 370, paras. 181 and 182.

<sup>912</sup> CONADEH, Follow-up on compliance with the recommendations of the report on the human rights situation in Honduras 2019, received October 30, 2020, p. 6.

<sup>913</sup> Insight Crime, New penal code suspected of favoring criminals in Honduras, June 29, 2020; DW, Controversial penal code enters into force in Honduras, June 25, 2020.

as certain provisions that by their wording may affect the right to protest and to defend human rights in the country, as well as other rights.<sup>914</sup>

460. Regarding the situation of **persons deprived of liberty**, the IACHR welcomed the State's efforts to lower the prison population. In particular, it highlighted the issuance of Decree No. 36-2020 of June 10, 2020, aimed primarily at ordering a mandatory review of precautionary pretrial detention measures in the case of persons who have an illness that increases their vulnerability with respect to COVID-19, and, where possible, applying non-custodial measures instead. This regulation also opens the possibility of alternatives to incarceration for crimes for which the Code of Criminal Procedure stipulated pretrial detention as the only possible precautionary measure.<sup>915</sup> For its part, the State informed the IACHR about: i) the "Prison Decongestion Plan," through which 2,773 pre-release benefits were granted to persons deprived of liberty as of September 2020, and ii) the creation of the health and human rights roundtable in light of the COVID-19 situation.<sup>916</sup> Despite those measures, the National Mechanism and Committee for the Prevention of Torture, Cruel, Inhuman or Degrading Treatment (MNP-CONAPREV), informed the IACHR that the measures taken by the National Penitentiary System would not be effective enough to guarantee the right to health, life, and physical integrity of persons deprived of liberty. It also expressed its concern about the lack of differentiated treatment for groups in vulnerable conditions and in situations of greater risk owing to the spread of COVID-19 inside prisons.<sup>917</sup>

461. Additionally, in 2020, the IACHR and OHCHR-Honduras issued a joint communiqué in which they expressed their particular concern about the crisis in the Honduran prison system due to the exacerbation of structural deficiencies, especially in health and security, in connection with the COVID-19 pandemic. They also noted with concern the extension of the period of intervention of the national penitentiary system by the Intervening Commission of the Institutional Security Force (FUSINA) until the end of December 2020, despite the fact that initially Decree PCM-068-2019 established a duration of six months.<sup>918</sup>

462. With respect to **human rights defenders**, the Commission warns that violence against defenders of land, territory, and the environment continues. In this regard, the Commission learned of the murder of environmental leader Arnold Morazán Erazo, on October 13, inside his home in Tocoa, department of Colón. Morazán was one of the 32 people charged in the Guapinol case.<sup>919</sup> The Commission was also informed about the murder of environmental defender José

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<sup>914</sup> IACHR, Press Release No. 174/2019, IACHR and OHCHR express concern over provisions of the Criminal Code in Honduras and call for a review in accordance with international and Inter-American human rights standards, July 12, 2019.

<sup>915</sup> Press Release 212/20 - In light of the COVID-19 pandemic, the IACHR expresses concern about the special situation of risk faced by persons deprived of liberty in the region. Washington, D.C., September 9, 2020

<sup>916</sup> Government of the Republic of Honduras, Oficio No. SSDH-O-PROMO-072-202, Report on Chapter IV, Volume 1, Section "A" of the Rules of Procedure of the Inter-American Commission on Human Rights, October 15, 2020, par. 63.

<sup>917</sup> IACHR, Public Hearing "*Situation of persons deprived of liberty in Honduras in the face of the COVID-19 pandemic*" held within the framework of the 177th Period of Sessions, October 2, 2020.

<sup>918</sup> IACHR, Press Release 221/20 - OHCHR and IACHR express concern about the situation of persons deprived of liberty in Honduras, September 16, 2020.

<sup>919</sup> Front Line Defenders, Murder of defender Arnold Joaquín Morazán Erazo criminalized for his defense of the Guapinol River, December 21, 2020; DW, Honduran environmentalists: a bloodstained Sakharov Prize, October 19, 2020.

Antonio Teruel on September 27 in the municipality of Patuca, Olancho,<sup>920</sup> and about the murder of environmental defender Marvin Damián Castro Molina, whose corpse was found on July 14, 2020.<sup>921</sup> The IACHR was also informed about the murder of Lenca indigenous leader and environmental defender Félix Vásquez, which occurred, according to public information, on December 26 when armed men entered his home in the municipality of Santiago de Puringla, department of La Paz.<sup>922</sup>

463. The Commission also observed that improper use of the criminal justice system continues to be a recurrent practice of harassment against human rights defenders in Honduras. In this regard, the Commission learned of the alleged criminalization, through criminal proceedings, against 31 environmental defenders from the community of Guapinol, accused of the crimes of unjust deprivation of liberty, aggravated arson, robbery, and unlawful association allegedly in retaliation for their work as defenders of land, territory, water, and the environment in Honduras.<sup>923</sup>

464. In relation to the National Protection Mechanism for human rights defenders, journalists, social communicators, and justice operators, the Commission received information regarding various shortcomings during 2020. In particular, the Commission was informed, inter alia, about a significant delay in the implementation of protection measures; a lack of confidence in the mechanism due to the high levels of State involvement in attacks against human rights defenders; the lack of participation of civil society in the mechanism's decision making<sup>924</sup>; the lack of budgetary resources needed to implement measures; lack of knowledge about human rights and human rights defenders among officials of the mechanism; and the implementation of measures ill-suited to the risks faced by defenders.<sup>925</sup>

465. Likewise, according to the information received by the IACHR, impunity persists in cases of violence against defenders. For example, the Commission has observed little progress with regard to the murder of defender Berta Cáceres. Civil society organizations informed the Commission that, as of October 2020, the oral and public debate phase of the trial against David Castillo, former manager of the dam company DESA, had not begun, and there was no news of any progress in the investigation by the Public Prosecutor's Office into other persons who may have planned the murder.<sup>926</sup>

466. With regard to the **rights of indigenous, tribal, and Afro-Honduran peoples**, the IACHR notes with concern the situation of threats, violence, and disappearances faced by these

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<sup>920</sup> CriterioHN, [Asesinan Asesinan ambientalista José Antonio Teruel junto a su esposa y cuñado](#), September 28, 2020; Defensores en línea, [Asesinan al ambientalista José Antonio Teruel, a su esposa y cuñado](#), September 28, 2020; FIDH, [HONDURAS: Uramos al gobierno de Honduras a investigar asesinatos de defensores de DDHH](#), October 5, 2020.

<sup>921</sup> France 21, [Environmentalist who had disappeared in Honduras found dead](#), July 14, 2020; FIDH, [Honduras: Murder of environmental defender Marvin Damián Castro Molina](#), July 15, 2020.

<sup>922</sup> DW, [Gunmen assassinate indigenous environmental leader in Honduras, Dec. 27, 2020](#); FIDH, [Honduras: Murder of indigenous leaders Felix Vasquez and Adan Mejia](#), January 7, 2020.

<sup>923</sup> Criterio Hn, [ONU pide a Honduras no utilizar sistema judicial para criminalizar defensores de Guapinol](#), September 5, 2020; OMCT, [Guapinol: urge revocar prisión preventiva de defensores del agua frente a riesgos por COVID-19](#), March 23, 2020.

<sup>924</sup> Coalition Against Impunity, [Report on the Situation of Human Rights in Honduras](#), 36th Session of the UPR Working Group (May 4-15, 2020), para. 38;

<sup>925</sup> Information provided by civil society organizations at a technical meeting held on December 18, 2020.

<sup>926</sup> Amnesty International, Honduras, Inputs to the Annual Report of the Inter-American Commission, received October 15, 2020.

peoples for defending their ancestral territories. The Commission learned of the alleged forced disappearance of four leaders of the Garífuna community of El Triunfo de la Cruz on July 18, 2020.<sup>927</sup> According to public information, armed persons, wearing uniforms and jackets of the Police Investigations Directorate (DPI), broke into the territory of the Garífuna community Triunfo de la Cruz in Tela, department of Atlántida, and abducted community leader Alberth Sneider Centeno, a member of the Black Fraternal Organization of Honduras (OFRANEH). Subsequently, this same armed group reportedly entered the home of Milton Joel Martínez Álvarez, Suami Aparicio Mejía and Gerardo Mizael Rochez, also members of OFRANEH; their whereabouts are still unknown.<sup>928</sup>

467. In this regard, the Inter-American Court issued provisional measures ordering the State to determine the whereabouts of the four missing Garífuna leaders, as well as to protect the lives and personal integrity of leaders of both communities who work in defense of the rights of the Garífuna people<sup>929</sup>.

468. Regarding the rights of **lesbian, gay, bisexual, trans, gender diverse, and intersex (LGBTI) persons**, the Commission is aware of the implementation of programs to strengthen the capacities of justice operators to investigate gender-based violence, taking into account LGBTI persons as a priority group, as well as training on the prevention of discrimination for personnel of various public institutions.<sup>930</sup>

469. The IACHR also learned of the progress made by the State in investigating and punishing the persons responsible for acts of violence against LGBTI persons or persons perceived as such, which resulted in the conviction of six persons responsible for the commission of these crimes.<sup>931</sup> However, the Commission observed that during 2020, rabid and cruel acts of violence against LGBTI persons in Honduras continued.<sup>932</sup> In this regard, the Commission was informed that during 2020 there were at least 20 violent deaths against LGBTI persons, including 9 gay men, 3 lesbian women and 8

<sup>927</sup> Criterio. Hn, [Asesinan Asesinan ambientalista José Antonio Teruel junto a su esposa y cuñado](#), September 28, 2020; El Heraldo, [Teruel, el guerrero desonsiratsiteque luchó contra las injusticias](#), October 3, 2020.

<sup>928</sup> Office of the United Nations High Commissioner for Human Rights, [OHCHR condemns the forced disappearance of Alberth Sneider Centeno, president of the board of the Garífuna community of El Triunfo de la Cruz, and three other people belonging to the community](#), July 19, 2020; Amnesty International, [Honduras: Government must find missing Garífuna and guarantee protection for the community](#), July 24, 2020.

<sup>929</sup> IACHR Court. [Case of the Garífuna Communities of Triunfo de la Cruz and Punta Piedra](#). Resolution on Provisional Measures regarding Honduras. September 2, 2020, Operative paragraph 1.

<sup>930</sup> State of Honduras, Observations of the State of Honduras to the Report “Situation of Human Rights in Honduras 2019,” October 30, 2020, pp. 18 and 19.

<sup>931</sup> State of Honduras, Observations of the State of Honduras to the Report “Situation of Human Rights in Honduras 2019,” October 30, 2020, p. 20; El Informativo, [Seis jóvenes condenados por muerte de un miembro de la Comunidad LGTBI en SPS](#), October 5, 2020; Radio HRN, [Más de 13 años de prisión contra asesino de miembro de la comunidad LGBTI de Honduras](#), November 26, 2020.

<sup>932</sup> Cattrachas Lesbian Network, [Report on Violent Deaths in the Cattrachas LGTBI Community 2009 - March 2020](#), March 2020; Agencia presentes, [A Grey,trans hondureña, la atacaron con un machete](#), September 18, 2020; CNN, [Asesinan al Periodista Luis Alonzo Almendares](#), September 28, 2020.

trans<sup>933</sup> persons, as well as human rights defenders, such as the murder of Scarleth Cáceres, trans activist and member of the LGBT Arcoiris Association of Honduras.<sup>934</sup>

470. Regarding the rights of **children and adolescents**, the IACHR learned that the National Directorate for Children, Adolescents, and the Family (DINAF) delivered donations of food supplies to the National Female Social Adaptation Penitentiary in the department of Francisco Morazán, where children of persons deprived of liberty are held. Information was also received on the Cooperation and Technical Assistance Agreement signed between DINAF and the organization Casa Alianza, aimed at preventing and comprehensively addressing the violations of the rights of children living on the streets of Tegucigalpa.<sup>935</sup>

471. The Commission also notes that almost two million children and adolescents were enrolled in the educational system in Honduras in 2020.<sup>936</sup> Of these, between 50% and 80% were reportedly not able to continue their education as a result of the COVID-19 health contingency, due to lack of Internet access or other obstacles, such as school closures and the economic crisis exacerbated by the pandemic.<sup>937</sup> Efforts by the Ministry of Education to adapt the education system in response to the pandemic reportedly did not achieve the desired objectives. According to the information available, more than 60% of the Honduran population lacks access to the Internet,<sup>938</sup> and 91% of those who do have access do so through prepaid cell phones, which makes virtual education available to very few children and adolescents in the country.<sup>939</sup> This has reportedly increased school dropout rates and forced many children and adolescents to look for work in the streets during hours when they would normally be attending classes.<sup>940</sup>

472. In relation to **women's rights**, the State indicated that it has taken various measures to reduce violence against women in the context of the COVID-19 pandemic. These measures include, notably: highlighting the problem of violence against women in times of emergency; advocacy; coordination with the National 911 System to ensure that hotlines and services for all victims of domestic violence are available; continuity of services for women victims of violence; an information campaign led by the National Women's Institute; and the development and dissemination of the *"Guide for Action for Survivors of Domestic Violence Victims during the national emergency due to the*

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<sup>933</sup> Red Lésbica Cattrachas, observatorio de Muertes Violentas de LGBTTI por Orientación Sexual e identidad de Género, updated as of December 7, 2020, submitted by the organization to the Rapporteurship on the Rights of LGBTI Persons of the IACHR.

<sup>934</sup> Agencia Presentes, [Trans Activist Scarlett Cáceres Murdered](#), July 14, 2020.

<sup>935</sup> DINAF, Government of the Republic of Honduras, Press Release: ["DINAF y Casa Alianza pactan acuerdo en favor de la Niñez en Situación de Calle"](#), September 3, 2020.

<sup>936</sup> COIPRODEN, Public Comunicqué COVID-19 No. 7, "More than 2 months after the suspension of face-to-face education in educational centers, uncertainty increases as to what will happen with the 2020 school year," June 4, 2020, p. 1.

<sup>937</sup> Agencia EFE, ["Unos 800,000 niños hondureños, en riesgo de abandonar estudios por COVID"](#), August 18, 2020.

<sup>938</sup> According to UNICEF data, less than 20% of households in Honduras have access to the Internet. UNICEF, ["Education on pause: A generation of children in Latin America and the Caribbean is missing out on schooling due to COVID-19"](#), p. 10.

<sup>939</sup> Agencia EFE, ["Unos 800,000 niños hondureños, en riesgo de abandonar estudios por COVID"](#), August 18, 2020.

<sup>940</sup> Agencia EFE, ["Increased poverty exacerbated by COVID-19 marks 'Day of the Honduran child'"](#), September 10, 2020.

*COVID-19 pandemic*".<sup>941</sup> However, the IACHR notes that, according to information compiled by the Women's Law Center, during 2020, 278 violent deaths of women were reported, most of them occurring in the departments of Cortés, Francisco Morazán, Olancho, and Yoro.<sup>942</sup>

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<sup>941</sup> Government of the Republic of Honduras, Oficio No. SSDH-O-PROMO-072-202, Report on Chapter IV, Volume 1, Section "A" of the Rules of Procedure of the Inter-American Commission on Human Rights, October 15, 2020, par. 69.

<sup>942</sup> CDM, Observatory of Violence against Women, 2020.



## **JAMAICA**

- **General considerations**

473. With regard to **progress**, the Commission highlights the measures adopted to contain the spread of COVID-19; the decrease in homicides compared to the same period in 2019, and the reduction in police violence. The Commission observes the measures taken to improve the infrastructure of the justice sector and strengthen the prosecutorial arm of the justice system. The IACHR also underscores the diversion programs that are being implemented at juvenile centers, the establishment of the Child Diversion Office to oversee the implementation of the Child Diversion Act, and the launch of the virtual library on human trafficking.

474. As regards **challenges**, the Commission notes with concern that in the context of a pandemic, the measures adopted by the Prime Minister would grant him comprehensive powers that would not be subject to the supervision of Parliament, the Governor General, or the Judiciary. The IACHR also observed the imposition of States of Emergency to suppress crime, which included mass arrests and incarceration; and notes the prevalence of child labor. Similarly, the Commission is concerned about the difficulties faced by children and adolescents with online education, particularly for those living in remote areas; and actions to reinforce security at the land and sea borders between the Dominican Republic, Haiti, and Jamaica. Further, the IACHR notes with deep concern the existence of legislation criminalizing consensual sex between LGBTI people, and reports of violence against women; and that there has been no progress with abolishing the death penalty in the country's legislation.

475. The State did not respond to the request for information sent to prepare this chapter.

- **Specific issues**

476. Regarding the COVID-19 pandemic, the IACHR highlights the measures adopted to contain the spread of the virus. In Jamaica, the first case was registered on March 10th, and since then preventive actions have been taken such as the declaration of the state of national disaster, the closure of educational establishments, and preventive isolation and other measures to limit circulation and gathering through the imposition of curfews.<sup>943</sup> In particular, the IACHR takes note that the Prime Minister declared the island a Disaster Zone on March 13, 2020 and enforced a series of strict curfews under Section 26(2) of the Disaster Risk Management Act (No.1 – 2015).<sup>944</sup> Also, the Prime Minister used this legal framework to quarantine two communities, while ordering the Jamaica Constabulary Force and the Jamaica Defense Force to enforce the quarantine.<sup>945</sup> The Commission further notes that on March 24, older persons were ordered to remain at home for 14 days, mass gatherings were

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<sup>943</sup> IACHR. "SACROI-COVID19 Rapid and Integrated Response Coordination Unit"

<sup>944</sup> Jamaica Information Service, Jamaica Declared a Disaster Area as COVID-19 Cases Increase and Two Communities Quarantined, 13 March 2020.

<sup>945</sup> Jamaica Information Service, Jamaica Declared a Disaster Area as COVID-19 Cases Increase and Two Communities Quarantined, 13 March 2020.

restricted,<sup>946</sup> and ports of entry were closed.<sup>947</sup> Likewise, the IACHR has learned about the creation of a Working Group for Economic Recovery and the implementation of the CARE program for social and economic support, to provide assistance to people in vulnerable situations and to small businesses through funding.<sup>948</sup>

477. For their part, Human Rights advocates informed the Commission that the administration's decision to rely on the Disaster Risk Management Act (DRMA) during the COVID-19 lockdown, gave the Prime Minister comprehensive powers without accountability under the Constitution, oversight by Parliament, or reference to the Governor-General, or the judiciary.<sup>949</sup> The IACHR was also informed by civil society organizations that those orders had no sunset clause or right of appeal when they interfered with citizens' rights, and that they were issued in legal language that was not easily understood by society in general.<sup>950</sup> In this context, the Commission reminds the State of IACHR Resolution 1/20 which requires that restrictions placed on human rights to protect health in the context of the pandemic should be lawful and proportionate to achieving the protection of health.<sup>951</sup>

478. Regarding institutional structures underpinning human **rights**, the Commission observes that within the framework of the Universal Periodic Review (UPR), the Human Rights Council indicated that although Jamaica reportedly accepted multiple recommendations to expedite the establishment of a central national human rights institution, no such mechanism has been established. In this regard, the IACHR has highlighted the importance of having an independent body for the promotion and protection of human rights at the national level. On the other hand, the IACHR welcomes the ratification of the Regional Agreement on Access to Information and Access to Justice in Environmental Matters in Latin American and the Caribbean, also known as the Escazú Agreement.<sup>952</sup>

479. With respect to **democratic institutional**ity, the IACHR observes that the General Elections, constitutionally due in February 2021, were held on September 3, 2020.<sup>953</sup> Regarding the bringing forward of the election date, the Prime Minister stated that the rise in COVID-19 cases and the devastating effects of the pandemic on employment in the country demanded an affirmation of popular support for the government for further imposition of measures for public safety and for balancing the economy.<sup>954</sup> The Commission further notes that while the incumbent Jamaica Labor Party (JLP) won 49 of the 63 seats, voter turnout was only 37% as compared to 48 percent in the 2016

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<sup>946</sup> The Gleaner, Seniors Under Lockdown! - 75-Y-Os Ordered To Stay Put, 65-Y-Os And Over To Work From Home, 24 March 2020.

<sup>947</sup> The Jamaica Gazette Supplement, The Disaster Risk Management (Enforcement Measures) (No. 2) Order, 2020, 24 March 2020.

<sup>948</sup> IACHR, Response of the State of Jamaica to the request for information through Letter Article 41 on Necessary measures to face the COVID-19 pandemic.

<sup>949</sup> IACHR, Minutes from Social Forum on Jamaica, June 19, 2020.

<sup>950</sup> IACHR, Minutes from Social Forum on Jamaica, June 19, 2020.

<sup>951</sup> IACHR, Resolution No. 01/2020, Pandemic and Human Rights in the Americas, 10 April 2020. Par. 20

<sup>952</sup> Amnesty International. "Jamaica 2019".

<sup>953</sup> Jamaica Information Service, General Election Set for September 3, 12 August 2020. Also, Caribbean Elections, Fact Sheet on Election Date of Caribbean Countries, 10 August 2020.

<sup>954</sup> Library of Congress Law, Jamaica: Early Election to Take Place amid COVID-19 Pandemic, 26 August 2020.

elections<sup>955</sup>; which the Prime Minister attributed to fear of contracting COVID-19, frustration, and a lack of enthusiasm.<sup>956</sup> Furthermore, the IACHR observes that at the end of 2019, the overall Rule of Law score increased by less than 1 percent, positioning Jamaica in 13<sup>th</sup> place out of 30 countries within the Latin American and Caribbean region.<sup>957</sup>

480. Regarding **citizen security**, according to the Jamaica Constabulary Force, as of <sup>h</sup> December 26, 2020, 1,301 murders had been reported, compared to 1,326 murders in 2019.<sup>958</sup> The Commission also takes note that the Government initially declared a State of Emergency in Montego Bay and St. Catherine in January 2018<sup>959</sup> in an effort to suppress the crime rate, an initiative that was extended to other “at risk” communities and continuously renewed up to August 17, 2020, with the intention of resuming this practice after the September 3 General Elections.<sup>960</sup>

481. The Commission is cognizant that fear mitigation is a still unresolved ongoing challenge despite the implementation of State of Emergency measures in traditional hot-spots or vulnerable areas, which empower police to make urgent interventions and carry out mass arrests.<sup>961</sup> The IACHR reiterates that the citizen security system should provide effective responses to prevent and reduce crime and violence, within the criminal justice chain, and to address the safety and security of “at risk” communities, without infringing the rights of citizens.<sup>962</sup> In this context, the Commission observed the adoption of a more participatory approach to fighting crime when, in August 2020, the Prime Minister, the Leader of the Opposition, and a wide range of state and non-state actors signed the bipartisan National Consensus on Crime, which has zero tolerance for violence, criminal gangs, and all forms of corruption.<sup>963</sup> The IACHR further notes that this National Consensus involves a multisectoral and inclusive approach between the community and accountable state agencies.

482. With regard to police violence, according to the most up-to-date figures from Amnesty International, during 2019 there were 86 police killings, which was the lowest number in 20 years.<sup>964</sup> The Commission notes that although, in the 2015 Review of the ‘Independent Commission of Investigation Act’, the Joint Select Committee of Parliament recommended an amendment to allow INDECOM to undertake criminal proceedings if there were reasonable grounds to do so,<sup>965</sup> according

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<sup>955</sup> BBC, Jamaica election: Andrew Holness' JLP re-elected amid rise in Covid-19 cases, 4 September 2020.

<sup>956</sup> BBC, Jamaica election: Andrew Holness' JLP re-elected amid rise in Covid-19 cases, 4 September 2020.

<sup>957</sup> World Justice Project, WJP Rule of Law Index 2020 performance, 2020, p.1.

<sup>958</sup> Jamaica Constabulary Force. Crime Statistics - Serious Crimes Report for January 1 to December 26, 2020 and comparative period 2019, December 2020.

<sup>959</sup> DW, Jamaican authorities declare state of emergency over crime, 18 January 2018, and Jamaicans for Justice, Supreme Court rules detentions under States of Emergency (SOE) unconstitutional, 25 September 2020.

<sup>960</sup> Jamaica Information Service, General Election Set For September 3, 12 August 2020.

<sup>961</sup> Insight Crime, InSight Crime's 2019 Homicide Round-Up, 28 January 2020.

<sup>962</sup> IACHR, Report on Citizen Security and Human Rights, OAS/Ser.L/V/II. Doc 57. December 31, 2009, par. 174.

<sup>963</sup> Jamaica Information Service, Country's Leaders Sign National Consensus On Crime, 4 August 2020.

<sup>964</sup> Amnesty International, Jamaica: Amnesty International calls on Prime Minister to give police oversight mechanism necessary powers, 8 July 2020.

<sup>965</sup> Report of the Joint Select Committee of Parliament on the Review of the ‘Independent Commission of Investigation Act, October 2015, p.5.

to Amnesty International as of 2020 this amendment had still not been made.<sup>966</sup> The Commission reiterates the importance of designing and implementing social and community plans and programs that address the problems that perpetuate police violence against citizens, as well as adopting effective protection measures to deal with it.

483. With respect to **access to justice**, public information indicates that strict measures were established for access to courts. They include: i) wearing a mask which covers nose and mouth; ii) body temperature checks using a hand-held thermometer; and iii) hand sanitization using the alcohol-based solvent provided at the entrance to each court building. Although these measures are in place, there is a lack of information on the extent to which COVID-19 has affected the court system in Jamaica.<sup>967</sup> Likewise, the Commission observes that the Government made efforts to increase legal aid, established an IT platform between the High Court and the Director of Public Prosecutions, improved infrastructure in the Justice Sector, introduced legislation, and enhanced training and service delivery technology.<sup>968</sup> The Commission further observes that, in its report for the UPR, the State noted that, in addition to investigations into extrajudicial killings by the police, efforts were being made to strengthen the prosecutorial arm of the Justice System.<sup>969</sup>

484. In relation to **persons deprived of liberty**, the IACHR received information regarding alleged arbitrary detentions through the use of States of Emergency between 2018 and 2020 to suppress crime.<sup>970</sup> In this regard, Jamaicans for Justice (JFJ) pointed out that several persons were detained in inhuman conditions for days or months and up to two years without charge. In addition, the JFJ documented that the police had detained persons in the absence of witnesses or credible evidence under the SOE.<sup>971</sup> Even more worrisome is the report by JFJ that thousands of Jamaicans who were processed under the SOE were forced to provide fingerprints and other personal data to the State, which remain in its possession.<sup>972</sup> In this context, the Commission learned of the Supreme Court ruling that these detentions were unconstitutional, and that Applicants for the writ of *habeas corpus* could be released.<sup>973</sup> In this respect, the Commission issues a reminder that Article 27 of the American Convention states that any suppression of rights must be temporary, and that the principle of proportionality should be applied in emergencies.<sup>974</sup> The IACHR likewise insists that states of

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<sup>966</sup>Amnesty International, Jamaica: Amnesty International calls on Prime Minister to give police oversight mechanism necessary powers, 8 July 2020.

<sup>967</sup> The Observer, The Jamaican court system under COVID-19, November 20, 2020.

<sup>968</sup> EU, EU Commends Jamaica on Justice Reform, 11 October 2020.

<sup>969</sup> Human Rights Council, National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21\*- Jamaica, A/HRC/WG.6/36/JAM/1, August 18, 2020, par. 64.

<sup>970</sup> Jamaicans for Justice, Supreme Court rules detentions under States of Emergency (SOE) unconstitutional, 25 September 2020.

<sup>971</sup> Jamaicans for Justice, Supreme Court rules detentions under States of Emergency (SOE) unconstitutional, 25 September 2020.

<sup>972</sup> Jamaicans for Justice, Supreme Court rules detentions under States of Emergency (SOE) unconstitutional, 25 September 2020.

<sup>973</sup> JMSC. Everton Douglas et al vs The Minister of National Security et al, 27-29 July & 18 September, Civ.267.

<sup>974</sup> IACHR, American Convention on Human Rights, 22 November 1969, Article 27.

emergency should be declared only in exceptional cases and in accordance with fundamental laws that establish the framework for their adoption.<sup>975</sup>

485. Regarding **children and adolescents**, the Commission observes that the Report by the parliamentary committee of the Sexual Offences Act and related legislation was approved by the Senate in July 2020. The adoption of the report made it possible for amendments to be made to relevant legislation including the type of punishment for assault against children; the murder of pregnant women; and for sexual offences and other similar violent crimes against children and persons with disabilities.<sup>976</sup> The Commission also takes note of the diversion programs that are being implemented at juvenile institutions, as well as the establishment by the Ministry of Justice of a Child Diversion Office to oversee the implementation of the Child Diversion Act, No. 14 of 2018.<sup>977</sup> Furthermore, the IACHR observes that the Minister of Labor recently stated that an earlier survey had estimated that 38,000 children were involved in child labor, and that the Government is committed to bringing an end to this form of abuse.<sup>978</sup>

486. In the context of the pandemic, the Commission noted that children and adolescents still faced difficulties with distance learning; particularly those living in remote areas where internet connectivity is limited or non-existent. It further noted that some teachers were hesitant to teach via virtual platforms, and that attempts were made by the State to provide training on how to cope with different learning styles and needs in a non-traditional classroom setting, and included recommendations for the safe reopening of schools.<sup>979</sup>

487. Regarding the **rights of lesbian, gay, bisexual, trans, and gender diverse and intersex (LGBTI) persons**, the Commission observes that the enforcement of laws that criminalize consensual sexual relations between adults of the same gender, termed “sodomy law” or “serious indecency,” with penalties of up to ten years, generates violence and discrimination against LGBTI people.<sup>980</sup> Considering the information provided in surveys, it has been determined that a majority of Jamaican citizens are against repealing these laws. The IACHR issues a reminder that a lack of

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<sup>975</sup> I/A Court of H.R., Zambrano Vélez et al. v. Ecuador. Merits, Reparation, and Costs. Judgment of July 4, 2007. Series C No. 166, par. 47. I I/A Court of H.R., Habeas corpus in emergency situations (Article 27.2, 25.1, and 7.6 of the American Convention on Human Rights). Advisory Opinion OC-8/87 of January 30, 1987. Series A No. 8, paras. 19 and 20.

<sup>976</sup> Human Rights Council, National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21\*- Jamaica, A/HRC/WG.6/36/JAM/1, August 18, 2020, par. 38. These amendments also apply to women and the elderly.

<sup>977</sup> Human Rights Council, National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21\*- Jamaica, A/HRC/WG.6/36/JAM/1, August 18, 2020, paras. 102, 103 and 104.

<sup>978</sup> Jamaica Observer, Approximately 38,000 children involved in child labor islandwide, says Henry, 31 July 2020.

<sup>979</sup> Relief Web, Teachers training for online and blended learning skills to ensure quality education during COVID-19 in Jamaica, 20 August 2020.

<sup>980</sup> IACHR, Social Forum, June 19, 2020; IACHR, [IACHR Presents Report on the State and Results of Efforts to Implement its Strategic Plan 2017–2021 During the First Half of 2020](#), July 7, 2020; Offences Against the Person Act, art. 76, 77, 78, and 79; Gay Star News, A British court ruling may change laws for LGBT+ people around the world, March 13, 2020; Jamaica Gleaner, ‘We are humans – not a disease’, July 31, 2020; Jamaica Observer, Massive agreement with buggery law, August 11, 2020; Barbados Today, Gunning breaking down stereotypes, October 5, 2020; Jamaica Gleaner, Need for conversations on buggery law, November 2, 2020.

consensus within a State regarding full respect for the human rights of LGBTI people or those who are perceived as such, cannot be considered as a valid argument for denying or restricting human rights,<sup>981</sup>

488. Likewise, the Commission regrets the decision by the Court of Appeals of Jamaica, which would allow television stations, as well as any private commercial entity, to invoke legal criminalization of LGBTI persons or persons perceived as such, in order to deny services, such as a paid advertisement about “Love and Respect”; which would constitute a denial of freedom of expression for LGBTI people or persons perceived as such, as well as serious discrimination.<sup>982</sup> In this regard, the IACHR has insisted that States must protect the right of all people to express their sexual orientation and gender identity and expression, as well as promote education, information and awareness with a view to providing tools to eradicate stigma, stereotypes, and discrimination towards LGBTI people.<sup>983</sup>

489. Regarding the **rights of persons in the context of human mobility**, the Commission learned of the implementation of a cooperation program to reinforce security at the land and maritime borders between the Dominican Republic, Haiti, and Jamaica. According to public information, the program seeks to strengthen the investigative skills of the State security agencies and their capacity to carry out joint operations to intercept and identify organized crime organizations and enhance efforts to prevent and combat trafficking in persons.<sup>984</sup>

490. In relation to **human trafficking**, the Commission takes note of the report about recommendations to the Central Government by the National Rapporteurship against Trafficking of Persons. In particular, the Rapporteurship recommends the adoption of a series of actions, such as the creation of protection shelters for male victims of exploitation, enhancing awareness among law enforcement authorities, strengthening inter-agency coordination, and drawing attention to domestic exploitation.<sup>985</sup> At the same time, the IACHR welcomes the initiative by the Office of the National Rapporteur against Trafficking of Persons, to launch and run a virtual library against human trafficking,<sup>986</sup>

491. Regarding **women's rights**, the Commission has received with concern reports of violence against women, including, expulsion from their homes by their partners an act of violence that is all the more serious in the context of the COVID-19 pandemic.<sup>987</sup> In this regard, the Commission

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<sup>981</sup> IACHR, [Report on Recognition of the Rights of Lesbian, Gay, Bisexual, Trans and Intersex \(LGBTI\) Persons in the Americas](#), December 7, 2018, par. 260.

<sup>982</sup> HIV Legal Network, Jamaican Court allows TV stations to censor advertisement urging respect for people, October 30, 2020.

<sup>983</sup> IACHR, [Report on Recognition of the Rights of Lesbian, Gay, Bisexual, Trans and Intersex \(LGBTI\) Persons in the Americas](#), December 7, 2018, paras. 80, 81, 82, and 83, recommendations 5, 8, and 21.

<sup>984</sup> Dominican today, Multi-country Border Security Program seeks to reinforce security on the Dominican, Haitian and Jamaican borders, December 6, 2020.

<sup>985</sup> Jamaica Observer, Human Trafficking Trouble, April 30, 2020.

<sup>986</sup> Office of the National Rapporteur on Trafficking in Persons (ONRTIP), Biblioteca Virtual, September 10, 2020.

<sup>987</sup> Jamaica Observer, Advocacy group eagerly awaiting opening of shelters for battered women, July 23, 2020; Jamaica Observer, COVID cruelty, November 6, 2020.

welcomes the proposed law on domestic violence,<sup>988</sup> as well as the construction of a national shelter to provide a safe place for women victims of violence.<sup>989</sup>

492. Regarding the **death penalty**, the IACHR takes note that there has been no progress with removing the death penalty from the statutory books, even though no execution has taken place since 1988, and no one has been sentenced to death since then.<sup>990</sup> The IACHR recalls that the death penalty is a violation of the right to life, and that States must adopt measures to abolish it.

## **MEXICO**

- **General considerations**

493. With regard to **progress** during 2020, the IACHR notes that Mexico adopted several measures to comply with its human rights obligations in the context of the COVID-19 pandemic in terms of protection of vulnerable populations, hospital reconversions, and vaccination. The IACHR also recognizes progress in the implementation of the National Search System (SNB), the Extraordinary Forensic Identification Mechanism (MEIF), the adoption of the Institutional Strategic Plan of the National Human Rights Commission (CNDH), the acceptance of the competence of the UN Committee on Enforced Disappearances, and the ratification of the Inter-American Convention against Racism. The Commission welcomes, inter alia, the prohibition of the detention of migrant children, the increased recognition of the right to gender identity in more states, the prohibition and criminalization of conversion therapies in Mexico City, and the deployment of campaigns for prevention, treatment and prosecution of gender-based offenses.

494. Regarding related **challenges**, the IACHR notes with concern the attacks based on prejudice and the COVID-19 deaths of medical personnel. In relation to human rights institutions, the IACHR notes a lack of clarity regarding the new financing scheme for the Mechanism for the Protection of Human Rights Defenders and Journalists and the Executive Commission for Attention to Victims. The numbers of femicides and murders of journalists and human rights defenders remain at alarming levels. With regard to the disappearance of, and search for, persons, the IACHR observes a need for the search and justice institutions to harmonize their respective mandates in order to implement a solid strategy to search for persons and address the humanitarian crisis acknowledged by the State in this area. The IACHR reiterates its concerns regarding the militarization of citizen security due to a provision ordering the armed forces to perform the duties of the National Guard for five years.

495. The State presented a response to the request for information sent to prepare this chapter on January 28, 2021.<sup>991</sup>

- **Specific topics**

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<sup>988</sup> Jamaica Observer, PM appeals to men: Stop violence against women, February 10, 2020.

<sup>989</sup> Caribbean News, Jamaican Government Opens First Shelter for Abused Women, November 26, 2020.

<sup>990</sup> Meeting with the Death Penalty Project on 27 October 2020.

<sup>991</sup> Report of the Mexican State. Chapter IV of the Annual Report of the Inter-American Commission on Human Rights (IACHR), January 28, 2021. Submitted by Diplomatic Note OAS 234 / 4.2.0.1. of January 2, 2021. Pp. 30-43. Hereinafter "Report of the State. Chapter IV. January 28, 2021."



496. With regard to **COVID-19**,<sup>992</sup> the State reported that the health emergency was declared on March 30, 2020 and that vaccination of medical personnel began on January 12, 2021. Likewise, the State reported on the adoption of instruments and procedures for the management and handling of the epidemic; the enforcement of social isolation; and the fulfillment of its human rights obligations related to the pandemic and the allocation of limited resources for critical medicine in emergency situations. Regarding medical personnel, it reported on the implementation of training programs to provide them with theoretical and practical tools to deal with the epidemic, as well as a medical training platform and daily open-microphone sessions.

497. Notwithstanding the above, the IACHR has noted with concern the occurrence of acts of violence against medical personnel. In this regard, Amnesty International reported that, at the beginning of the pandemic, the Ministry of the Interior documented at least 47 cases of aggressions against health personnel and the National Council for the Prevention of Discrimination reported that, between March 19 and May 8, it received 265 complaints of discrimination against health personnel. According to the information presented, Mexico was one of the countries with the highest number of deaths of medical personnel in the world.<sup>993</sup>

498. Regarding the measures to control the pandemic, the State reported that its strategy eschewed the need to implement coercive measures, by moving away from a punitive approach and prioritizing communicative methodologies for voluntary social awareness. The IACHR notes that in mid-March, when other countries had adopted severe restrictive measures, Mexico continued to hold large public events<sup>994</sup> and did not implement the recommendations issued by the World Health Organization on the use of masks.<sup>995</sup> The IACHR reiterates to the State that in its Resolution 1/2020 "Pandemic and Human Rights" it recommended that States adopt immediately, urgently and with due diligence the recommendations issued by the WHO and PAHO, as applicable.<sup>996</sup> The Commission draws attention to the official death toll, which shows Mexico with one of the highest number of deaths per capita.<sup>997</sup>

499. In addition, the State indicated that it had allocated human resources, reconverted hospitals and reorganized health professionals in the country. It also indicated that it had accelerated authorizations and sanitary registration procedures for the supply of medicines, medical supplies and screening tests, and had managed imports of medicines and medical supplies received as donations. In the area of mental health during the pandemic, it published psychosocial support Guidelines for response and actions in mental health and addictions and the Operational Manual of the course on assisting those in mourning.

500. With regard to sexual and reproductive health, the State reported the publication of the Guidelines for the prevention and mitigation of COVID-19 in pregnancy, childbirth, puerperium and newborn care, as well as informative programs, training, and dissemination for timely maternal

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<sup>992</sup> "State Report. Chapter IV. January 28, 2020, pp. 30-43.

<sup>993</sup> Amnesty International, Exposed, silenced and attacked. Shortcomings in the protection of healthcare workers and those performing essential work during the COVID-19 pandemic, May 23, 2020.

<sup>994</sup> The New York Times, Mexico's government calls for calm, adopts measured measures in the face of the virus, March 16, 2020.

<sup>995</sup> AS/COA, The Coronavirus in Latin America, January 20, 2021.

<sup>996</sup> IACHR, Resolution 1/2020, Pandemic and Human Rights, April 10, 2020, p. 8.

<sup>997</sup> 24 Matins, WHO chief raises alarm over covid-19 situation in Brazil and Mexico, November 30, 2020.

health care. The State reported on actions undertaken to disseminate information on health and mental health in the face of the COVID-19 pandemic for persons living with HIV and that it had disseminated the "Protocol for non-discriminatory access to health care services for lesbian, gay, bisexual, and intersex persons and specific care guidelines".

501. With regard to the **strengthening of human rights institutions**, the State reported that since 2019 the CNDH had been undergoing a restructuring process to optimize its response and execution capacity, and had therefore adopted its Institutional Strategic Plan 2020-2024, geared primarily to prioritizing people and establishing strategies to ensure greater protection and defense of victims.<sup>998</sup> Notwithstanding the above, the Commission notes with concern the allegations regarding the deterioration of the CNDH's functions with respect to the victims of gender violence and attention to their cases and the lack of dialogue with women's groups that led to the occupation of the CNDH's facilities for more than a month.<sup>999</sup>

502. The Commission expresses its concern over budget cuts for institutions responsible for the defense and promotion of human rights and care for victims<sup>1000</sup> and the termination of trust funds of multiple human rights agencies and programs,<sup>1001</sup> including programs for gender equality, eradication of violence against women, and attention and reparations to victims.<sup>1002</sup> At the same time, the IACHR voices its concern regarding the legislative reform initiative on the Office of the Attorney General of the Republic (FGR) and other laws, which would eliminate the participation of the FGR in multiple human rights coordination and deliberation bodies, limit procedural rights of victims and family members, and restrict the functional autonomy of prosecutors, all of which could particularly impair the situation of migrants and the search for missing persons.<sup>1003</sup>

503. Regarding **democratic institutionalism**,<sup>1004</sup> the State reported that the electoral process convened in September 2020 had got off to a good start and that the election day is scheduled for June 6, 2021. The State said it had taken several steps to guarantee gender equality in the electoral process, such as the criminalization of gender-based political violence and the creation of the National Registry of Persons Penalized for Gender-based Political Violence against Women. Regarding

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<sup>998</sup> State Report. Chapter IV. January 28, 2020, pp. 8-9.

<sup>999</sup> IACHR, [IACHR Condemns Acts of Violence during the Eviction and Arrest of Protesters at the Office of the Human Rights Commission of the State of Mexico](#), September 23, 2020; Infobae, [Rosario Piedra: la titular de CNDH comparecerá ante el Senado en medio de polémica por toma de instalaciones](#), September 9, 2020; Infobae, [Qué pasa al interior del "nuevo fuerte feminista mexicano": a un mes de la toma de instalaciones de la CNDH](#), October 4, 2020.

<sup>1000</sup> Diario Oficial de la Federación, [Decreto por el que se establecen las medidas de austeridad que deberán observar las dependencias y entidades de la Administración Pública Federal bajo los criterios que en el mismo se indican](#), April 23, 2020. IACHR, [Public Hearing - Human Rights Institutionalism in Mexico, with a gender perspective](#), 178th session, December 4, 2020.

<sup>1001</sup> Diario Oficial de la Federación, [Decreto por el que se reforman y derogan diversas disposiciones de la Ley para la Protección de Personas Defensoras de Derechos Humanos y Periodistas \(...\)](#), November 6, 2020.

<sup>1002</sup> IACHR, [Public Hearing - Human Rights Institutionalism in Mexico, with a gender perspective](#), 178th session, December 4, 2020. IACHR, <https://twitter.com/CIDH/status/1319774612763242496>, October 23, 2020.

<sup>1003</sup> Índice Político, [Presenta Ricardo Monreal expansión a ley de FGR](#), 7 October 2020; Secretaría de Gobernación, [Necesario abrir debate público sobre reforma integral en materia de justicia: Alejandro Encinas Rodríguez](#), 9 December 2020; Animal Político, [Omisiones, retrasos y riesgo de retroceso a dos años de la ley que puso en marcha la FGR](#), 14 December 2020.

<sup>1004</sup> The information reported in this section was submitted by the State in: State Report. Chapter IV. January 28, 2020, pp. 2-7.

implementation of the principle of parity, upheld in the Constitution in 2019, the State informed that only 10 states have yet to incorporate the principle of horizontal parity in their local laws.

504. With respect to **access to justice**, the State indicated that it had taken a series of steps, ranging from the suspension of work and only attending to urgent cases, the initiation of remote sessions by a number of judicial bodies, and the introduction of virtual procedures and proceedings.

505. In relation to **citizen security**, the State reported on the measures adopted so that veteran elements transferred from the armed forces to the National Guard must pass a trustworthiness check and undergo training in order to obtain the Single Police Certificate. The State reaffirmed that the National Guard is a civilian public security institution that complies with international human rights standards. The IACHR reiterates its concerns regarding the militarization of the National Guard and of citizen security in Mexico.<sup>1005</sup>

506. In the area of **forced disappearance and missing persons**, the IACHR welcomes progress in the implementation of the National Search System (SNB), specifically, the establishment of all the State Search Commissions; the adoption of the PHB and the progress in the installation of the MEIF.<sup>1006</sup> However, at the end of 2020, despite the expiration of the legal mandate for the implementation of the General Law on Disappearances, there are still some programs and tools that have not been implemented. Likewise, the IACHR expresses its concern about the high number of disappearances and graves located with bodies and human remains inside them, since in 2020, 82,167 persons were reported as missing<sup>1007</sup> and, as of November 24, 2020, 4,234 graves (with 7,233 bodies) had been discovered.<sup>1008</sup>

507. Regarding the eradication of **torture**, the IACHR appreciates the creation of the Evaluation and Follow-up Mechanism to monitor implementation of the General Law on Torture. However, the Commission reiterates its concern about the lack of implementation of said Law and the of the failure to establish the National Registry of the Crime of Torture, publish the National Plan to Prevent and Punish Torture, and install all the Special Prosecutor's Offices for the investigation of the crime of torture in the states. The IACHR notes that, in 2020, only two cases of torture were prosecuted by the Special Prosecutor's Office for torture cases.<sup>1009</sup>

508. With regard to the **protection of human rights defenders**, the State reported that the Mechanism for the Protection of Human Rights Defenders and Journalists is assisting 1,313 persons, of whom 887 are human rights defenders. It also reported on the review of the current regulatory framework with a view to strengthening local response capacities.<sup>1010</sup> Despite the above, the Commission observed an increase in violence against defenders of the environment, and

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<sup>1005</sup> IACHR, [IACHR Reiterates Mexico's International Human Rights Commitments on Citizen Security](#), July 25, 2020.

<sup>1006</sup> State Report. Chapter IV. January 28, 2021. p. 12 - 15, IACHR [The IACHR welcomes progress made by the Mexican State towards the entry into operation of the Extraordinary Forensic Identification Mechanism](#), December 16, 2020.

<sup>1007</sup> The number of reports of persons who are still missing covers a period between March 15, 1964 and December 31, 2020; Secretaría de Gobernación, [Versión Pública del Registro Nacional de Personas Desaparecidas y No Localizadas](#).

<sup>1008</sup> The data on graves located and bodies exhumed are for the period from 2007 to November 24, 2020; Secretaría de Gobernación, [Informe sobre búsqueda e identificación de personas desaparecidas en el país](#), October 7, 2020; Office of the President of the Republic, [Versión estenográfica de la conferencia de prensa estenográfica de la conferencia de prensa matutina del presidente Andrés Manuel López Obrador](#), November 25, 2020.

<sup>1009</sup> IACHR, [Public Hearing - Combating Torture in Mexico](#), 178th session, December 4, 2020.

<sup>1010</sup> State Report. Chapter IV. January 28, 2021. p. 10.

defenders of the rights of indigenous peoples, women, and the LGBT population. The State reported the murder of 30 human rights defenders in 2020, 7 of whom belonged to the LGBT community; 6 to communities and indigenous peoples; and 4 were environmental defenders.<sup>1011</sup> The IACHR has learned of alleged extrajudicial executions<sup>1012</sup> of defenders. The Commission highlights the high number of attacks against women defenders between January and October 2020, reportedly totaling 624 attacks against 190 women defenders and 158 attacks against 48 women's collective spaces.<sup>1013</sup> The IACHR also notes with concern the increase in stigmatizing statements by authorities against defenders, particularly environmentalists critical of the "Mayan Train".<sup>1014</sup> Finally, the IACHR reiterates its concern over the termination of the trust fund that finances the aforementioned Mechanism.<sup>1015</sup>

509. With regard to the rights of **indigenous peoples**, the Commission welcomes the constitutional reform initiative to ensure recognition of indigenous peoples' right to consultation and hopes that a general law on the matter will eventually be adopted.<sup>1016</sup> On the other hand, the IACHR received information on alleged irregularities in the "Mayan Train" implementation process due to the lack of participation and failure to provide sufficient information to indigenous peoples likely to be affected, as well as the militarization of the service area of the project.<sup>1017</sup>

510. Regarding women's **rights**, the State reported on the installation of 24 State Peace and Security Roundtables to prevent and address gender violence and the reduction of the backlog of judicial cases in this area, the strengthening of the Justice Centers for Women, and the implementation of the Women Peace Builders Strategy for community prevention of gender violence in 26 states. The IACHR notes with concern the registration, according to available public sources, of 220,028 complaints of domestic violence in the State of Mexico during 2020. According to those data from the Executive Secretariat of the National Public Security System (SESNSP),<sup>1018</sup> 603 investigation files were opened per day, or 25 every hour, throughout the year. All in all, 16,543 complaints of rape were registered.<sup>1019</sup> The Commission has also expressed its concern about the criminalization, threats, intimidation, excessive use of force, arbitrary detentions and sexual violence against women activists

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<sup>1011</sup> Common Cause, 2020 Annual Atrocities Report, p. 6.

<sup>1012</sup> Comité Cerezo Mexico, Report: 14 Human Rights Defenders extrajudicially executed in 2020, January 12, 2021.

<sup>1013</sup> Red Nacional de Defensoras de Derechos Humanos, Exige Red Nacional de Defensoras de Derechos Humanos en México respeto a derechos humanos de defensoras y periodistas, December 10, 2020.

<sup>1014</sup> Consejo Regional Indígena Popular De X'Pujil (CRIPX), Diálogo Y Movimiento (DIMO) Indignación, Consejo Civil Mexicano Para La Silvicultura Sostenible, Centro Mexicano De Derecho Ambiental (CEMDA), Due Process of Law Foundation (DPLF), Informe de reunión del 30 de noviembre 2020 con la CIDH en torno a las violaciones de derechos humanos en el marco de la implementación del megaproyecto "Tren Maya", 12 December 2020; Article 19, El Gobierno de México debe abstenerse de estigmatizar la labor de personas defensoras de derechos humanos y periodistas, August 30, 2020; Espacio OSC, El Gobierno de México debe abstenerse de estigmatizar la labor de personas defensoras de derechos humanos y periodistas, undated.

<sup>1015</sup> IACHR, Tweet, October 23, 2020.

<sup>1016</sup> Chamber of Deputies, Gaceta Parlamentaria, number 5472-II, March 5, 2020; Senate of the Republic, Promueven reforma constitucional para consultas a pueblos y comunidades indígenas, June 30, 2020.

<sup>1017</sup> Consejo Regional Indígena Popular De X'Pujil (CRIPX), Diálogo Y Movimiento (DIMO) Indignación, Consejo Civil Mexicano Para La Silvicultura Sostenible, Centro Mexicano De Derecho Ambiental (CEMDA), Due Process Foundation (DPLF), Informe de reunión del 30 de noviembre 2020 con la CIDH en torno a las violaciones de derechos humanos en el marco de la implementación del megaproyecto "Tren Maya", December 12, 2020.

<sup>1018</sup> Animal político, In 2020, every hour there were 25 reports of domestic violence, Jan. 26, 2021

<sup>1019</sup> Executive Secretariat of the National Public Security System, Information on violence against women December 2020, January 25, 2020.

and demonstrators in the context of social protests.<sup>1020</sup> The IACHR is also worried about public information regarding the cancellation of the operating budget for the "Casas de la Mujer Indígena y Afromexicana (CAMI)" and their specialized care services for women victims of violence and for sexual and reproductive health.

511. The IACHR notes that the State recognized that isolation in the home increases the risks for women victims of violence who spend more time with their aggressors. To combat this, it launched the program "You are not alone, we are still with you" for attending to and channeling complaints, confidential "chats", and assistance through videoconferences by psychological and legal staff. The State also reported on the creation of a "Life Line" service in which more than 300 psychologists work. In coordination with the 911 line, they have been trained to provide telephone assistance in cases of domestic violence and sexual violence against children. According to the State, 2,777 Friendly Services for the detection of family and sexual violence and the provision of first aid are also up and running. Notwithstanding the above, the Commission is concerned about the 55% increase in gender-based violence compared to the previous year, which has been attributed to confinement.<sup>1021</sup>

512. In relation to the protection of **lesbian, gay, bisexual, trans, and gender-diverse and intersex persons (LGBTI)**, the IACHR welcomes the adoption of legislation for the recognition of the right to gender identity in 12 states,<sup>1022</sup> including recognition of the gender identity of trans children in Jalisco.<sup>1023</sup> The Commission also welcomes the prohibition of procedures that attempt to modify, deviate, or suppress the gender identity/expression and sexual orientation of persons (also known as "conversion therapies") and their criminalization in Mexico City.<sup>1024</sup> The IACHR also welcomes the implementation of the Intersex Survey aimed at intersex people, in order to get to know the opinions, expressions, practices and experiences of discrimination, exclusion and violence faced by people with diversity in their sexual characteristics. However, in 2020 the Commission learned of deaths in violent circumstances,<sup>1025</sup> homicides<sup>1026</sup>, disappearances<sup>1027</sup> and attacks<sup>1028</sup> against LGBTI people and reports on the occurrence of at least 57 hate crimes in 10 states, 22 of which were reportedly transfemicides.<sup>1029</sup>

<sup>1020</sup> IACHR, The IACHR Condemns Acts of Violence in the Eviction and Detention of Demonstrators on the Premises of the Human Rights Commission of the State of Mexico, September 23, 2020; IACHR, <https://twitter.com/cidh/status/1269458561794543616?s=12>, June 6, 2020; IACHR, <https://twitter.com/CIDH/status/1326532719501864965>, November 11, 2020.

<sup>1021</sup> Milenio, Piden priorizar prevención de violencia de género por encima de austeridad, July 23, 2020.

<sup>1022</sup> Arcoiris Foundation, Report on the human rights situation in Mexico for the IACHR, October 24, 2020, pp. 7.

<sup>1023</sup> Reporte Indigo, Reconocen infancias trans en Jalisco, November 19, 2020.

<sup>1024</sup> Congreso CDMX, CDMX Congress approves reforms to the Penal Code criminalizing "conversion therapies", July 24, 2020.

<sup>1025</sup> IACHR, <https://twitter.com/CIDH/status/1274165649019936768>, June 19, 2020.

<sup>1026</sup> Agencia Presentes, En dos meses asesinaron a tres mujeres trans en Michoacán, March 13, 2020; Agencia Presentes, Jóvenes en México alzan la voz y reclaman por 5 crímenes LGBT en dos semanas, August 27, 2020.

<sup>1027</sup> Agencia Presentes, Two transgender women disappeared in Jalisco, October 9, 2020.

<sup>1028</sup> El Heraldo Mexico, Policías" queman a compañera en Chiapas por confesar que es lesbiana, March 31, 2020.

<sup>1029</sup> Arcoiris Foundation, National Observatory of Hate Crimes against LGBT people,

513. In relation to the **rights of children and adolescents**, the IACHR positively highlights the prohibition of detention of children and adolescents in migrant stations or holding centers<sup>1030</sup> and the call for the participatory construction of the Additional Protocol for the Search for Disappeared Children.<sup>1031</sup> However, the IACHR notes that 11,131 children and adolescents were reported missing, 5,962 of whom are girls and 5,159 boys.<sup>1032</sup> The Commission also expresses its concern over reports of forced recruitment of children into armed groups, organized crime, criminal gangs, and self-defense groups, and reiterates to the State the commitments it made at the public hearing held during the 175th period of sessions.<sup>1033</sup>

514. With regard to the rights of **persons in human mobility**, the Commission welcomed the approval of the reforms to the Migration Law and the Law on Refugees, Complementary Protection, and Political Asylum. The Commission highlights: i) the consideration of family unity, family development and best interests in the principles concerning children and adolescents; ii) the prohibition to return, expel, deport, turn back, reject at the border or not admit children and adolescents without first assessing whether their life, freedom, or safety would be at risk; and iii) the prohibition to present or hold migrant children or adolescents in migrant holding stations or places authorized for that purpose.<sup>1034</sup> Likewise, the Commission took cognizance of the approval by the plenary of the Chamber of Deputies of the opinion on the bill that amends Article 30 of the Political Constitution of the United Mexican States, regarding nationality. According to public information, the constitutional amendment would eliminate the distinction set forth in the current constitution for the acquisition of Mexican nationality, between daughters and sons of Mexican persons born in Mexican territory or naturalized, and daughters or sons of Mexican persons not born in Mexican territory. In order for the reform to become effective, it must be approved by the majority of the state legislatures.<sup>1035</sup> In this regard, the Commission has emphasized the importance of having legal frameworks and mechanisms that facilitate access to nationality for persons who would otherwise be left in a situation of statelessness.<sup>1036</sup>

515. However, there are still concerns regarding the protection and guaranteeing of the human rights of persons in situation of human mobility in Mexico. Regarding asylum seekers, the Commission observed a decrease in the number of applications in asylum and protection procedures during 2020. This could be related to the impacts of the COVID-19 pandemic and the measures imposed to contain the virus, such as border closures and total or partial confinements. The most

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<sup>1030</sup> UN Mexico, "[Agencias de la ONU celebran aprobación de reformas a favor de la niñez y adolescencia migrante, solicitante de asilo y refugiada](#)", 30 September 2020.

<sup>1031</sup> Office of the President of the Republic, [Versión estenográfica de la conferencia de prensa matutina del presidente Andrés Manuel López Obrador](#), November 25, 2020; Comisión Nacional de Búsqueda, [Convocatoria para la participación en el Proceso de fortalecimiento del proyecto de Protocolo Adicional para la Búsqueda de Niñas, Niños y adolescentes](#),

<sup>1032</sup> The number of reports of children and adolescents who are still missing covers a period between March 15, 1964 and December 31, 2020; Secretaría de Gobernación, [Versión Pública del Registro Nacional de Personas Desaparecidas y No Localizadas](#).

<sup>1033</sup> IACHR, [Public Hearing - Protection of Children in Mexico: Forced Recruitments and Disappearances](#), 175th session, Port-au-Prince, Haiti, March 6, 2020.

<sup>1034</sup> Secretaría de Gobernación, [Decreto por el que se reforman diversos artículos de la Ley de Migración y de la Ley sobre Refugiados, Protección Complementaria y Asilo Político, en materia de Infancia Migrante](#), November 11, 2020.

<sup>1035</sup> UNICEF, [Constitutional reform on nationality guarantees right to nationality and prevents statelessness](#), December 16, 2020.

<sup>1036</sup> IACHR, Press Release 042/19 - [IACHR welcomes measures adopted to guarantee the right to nationality and prevent statelessness in countries of the region](#), Washington D.C., February 25, 2019.

recent figures from COMAR indicate that as of November 2020, a total of 36,454 asylum applications had been received, compared to 70,609 applications filed during the same period in 2019. Notwithstanding the decrease in the filing of such applications compared to previous years, civil society organizations have expressed concern over the lengthy delays in processing and resolving them. In addition, they noted that although COMAR's overall workload has increased in recent years, it has not implemented a plan for institutional strengthening and adequate allocation of the financial and human resources needed to respond to the increase in asylum<sup>1037</sup> or protection requests.<sup>1038</sup> In addition, the Commission took note of situations of tension and violence in immigration stations and other facilities where migrants and asylum seekers are locked up for administrative procedures, often in a situation analogous to detention, for fear of contagion by the disease generated by the new coronavirus.<sup>1039</sup> In the same vein, reports from civil society organizations documented that the migratory stations, holding centers or places set up for this purpose do not meet minimum hygiene standards, are unsafe, and likely to spread the virus among the population due to the uninhabitable conditions that prevent social distancing, adequate hygiene, and other preventive and medical care practices.<sup>1040</sup>

516. On the other hand, the Commission learned of the approval, by the Chamber of Deputies of the Congress of the Union, of the bill for a "General Law to Prevent, Address and Make Comprehensive Reparation for Forced Internal Displacement". According to public information, the law would seek to recognize and guarantee the rights of displaced persons in Mexico. At the same time, it would establish the distribution of competencies among the Federation, states, municipalities, and autonomous entities. It also orders the creation of the National Registry of Displaced Persons, the National Program to Prevent, Address and Make Comprehensive Reparation for Forced Internal Displacement -drafted by the Ministry of the Interior-, and the fund for comprehensive attention to displacement cases.<sup>1041</sup> Likewise, the IACHR draws attention to reports indicating that, during the first half of 2020, 9,000 new internal displacements related to disasters and 4,600 related to conflict and violence were documented.<sup>1042</sup>

517. With regard to **persons deprived of liberty**, the State acknowledged that intramural pandemic control poses a challenge. In this regard, it reported the adoption of protocols for the prevention of contagion and emergency care, and for early releases in connection with COVID-19. It indicated that as of December 2020, 3,214 persons had been released, either early or because they were deemed to have served their sentences. Regarding the passing of the Amnesty Law, the IACHR welcomed the creation of the Commission for the Granting of Amnesties as a measure that will help

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<sup>1037</sup> COMAR, Statistics November 2020, December 3, 2020.

<sup>1038</sup> Human Rights Observation Mission on Mexico's Southern Border, Report of Findings of the Human Rights Observation Mission on Mexico's Southern Border, August-September 2020, p. 37. Animal Político, "Comisión de Refugiados pidió 124mdp solo le dieron 47, aunque hay récord de solicitudes de asilo" (25 November 2019).

<sup>1039</sup> IACHR, Press Release 077/20 - IACHR Urges States to Protect the Human Rights of Migrants, Refugees and Displaced Persons in the Face of the COVID-19 Pandemic, Washington D.C., April 17, 2020.

<sup>1040</sup> Fundación para la Justicia y el Estado Democrático de Derecho, Informe sobre los efectos de la pandemia de covid-19 en las personas migrantes y refugiadas. Violaciones a derechos humanos documentadas por organizaciones defensoras y albergues en México, Mexico, 2020, p. 52. MODH, Informe de hallazgos de la misión de observación de derechos humanos en la frontera sur de México, Mexico, p. 35.

<sup>1041</sup> El Economista, Aprueban diputados ley sobre desplazamiento forzado en México, September 29, 2020. W Radio, Aprueban Ley para Prevenir, Atender y Reparar el Desplazamiento Forzado, September 29, 2020.

<sup>1042</sup> IDMC, Internal displacement 2020: Mid-year update, 2020, p. 36.



prevent COVID-19.<sup>1043</sup> Notwithstanding the above, according to public information, as of December 2020, no amnesty had been granted at the federal level.<sup>1044</sup>

518. The State also reported on the deployment of the Comprehensive Migrant Health Care Plan for prevention, promotion, and focused health care for this population. It also indicated that it had created an intersectoral team on "Migration and COVID-19" for the issuance of technical and regulatory documents and had adopted a protocol for actions in migrant holding centers for the prevention of contagion. Nevertheless, the IACHR draws attention to reports of a lack of protection for migrants deprived of liberty in immigration stations and temporary holding centers that even required intervention by judicial authorities.<sup>1045</sup>

519. Regarding the situation of **people of African descent and steps to prevent racial discrimination**, the IACHR welcomes the inclusion of the Afro-descendant/Afro-Mexican ethnic-racial self-identification variable in the last census of 2020.<sup>1046</sup>

## PANAMA

- **General considerations**

520. During 2020, the IACHR took note of several **advances** in Panama, such as the initiation of a participatory, transparent, and inclusive dialogue process, which will conclude in a proposed reform of the Constitution; the approval of the law granting special leave for the care of children and adolescents with leukemia, cancer, or serious or terminal degenerative diseases; and the law criminalizing physical and psychological abuse of the elderly.

521. In relation to ongoing **challenges**, the IACHR notes with concern the reports of acts of discrimination and violence against trans and gender-diverse persons in the context of measures to mitigate and contain the COVID 19 pandemic, as well as regulatory and public policy gaps in the protection of the rights of LGTBI persons. The Commission also notes with concern the complaint filed by the National Secretariat for Children, Adolescents, and Family (Senniaf) to the Public Prosecutor's Office on account of abuse against children and adolescents in the residential unit known as the Centro de Atención Integral Fundación Chilibre Panamá. Similarly, the IACHR notes issues with access to education for children in lower-income households hardest-hit by the absence of distance education.

522. The State submitted a response to the request for information sent for the preparation of this chapter on December 16, 2020.<sup>1047</sup>

- **Specific topics**

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<sup>1043</sup> IACHR, <https://twitter.com/CIDH/status/1275922320847224841>

<sup>1044</sup> Animal Político, [Seven months into the Amnesty Law: there are 762 petitions filed, but none granted](#), December 1, 2020.

<sup>1045</sup> CMDPDH, CP: [El INM no puede dejar desprotegidas a personas migrantes frente a la crisis del COVID-19](#), May 15, 2020; MVS Noticias, [Ordena juez a INM libertar a migrantes en riesgo por COVID-19](#), May 15, 2020.

<sup>1046</sup> El País, [Mexico asks for the first time about the black and Afro-descendant population](#), March 02, 2020. *See also*, El Economista, [Inegi counts for the first time Afro-Mexican population and there are 2.5 million people](#), January 25, 2021; El Universal, [Dos de cada 100 habitantes se considera afrodescendiente, revela Censo de Población del Inegi](#), January 25, 2021.

<sup>1047</sup> Report of the State of Panama to the IACHR for Chapter IV of the IACHR 2020 Annual Report, December 16, 2020.

523. In the context of the COVID-19 health crisis, the Commission highlights the measures adopted by the State to deal with the spread of the virus, which have enabled Panama's hospital capacity to remain stable and deal with the epidemic without collapsing. The first case was confirmed on March 9. On March 11, schools were closed and on March 13, a national state of emergency was declared.<sup>1048</sup> On March 16, a series of measures were approved to mitigate and control the pandemic, among them, the temporary closing of commercial premises, limitations for residents in buildings, and the rationalization of water use.<sup>1049</sup> On March 17, a nationwide curfew was declared<sup>1050</sup> and on March 24 a mandatory national quarantine was imposed.<sup>1051</sup> The State activated the Panama Solidarity Plan,<sup>1052</sup> which consists of relief for people affected by the pandemic through the delivery of food bags, vouchers, and digital vouchers. The Commission takes note of the implementation of the Educational Solidarity Plan that provides free mobile Internet access to students of non-official schools to receive virtual classes, following the connectivity agreement between the National Assembly and four telephone operators in the country.<sup>1053</sup> Although strategies have been implemented for the gradual reactivation of the country's economic and social life, classes were still suspended as of the first quarter of 2021.<sup>1054</sup> In November, 2020, the purchase of vaccines to combat the pandemic was announced,<sup>1055</sup> and in December the government enacted new measures to restrict mobility in order to control the spread of COVID-19.<sup>1056</sup>

#### Human rights institutionalality

524. With regard to **human rights institutions**, in 2019 the IACHR voiced its concern at the dismissal of the Ombudsperson by the Plenary of the National Assembly of Deputies<sup>1057</sup>: the fifth case of seven Ombudsmen of Panama in twenty-two years who do not complete their term of office. In August 2020, the IACHR took note of the appointment of the new Ombudsperson to complete the current 2016-2021 term.<sup>1058</sup> In this regard, the Commission reiterates to the State of Panama the vital importance of stable human rights institutions able to fulfill their independent role in the promotion and protection of human rights and to ensure full respect for human rights at the national level.

<sup>1048</sup> [Cabinet Council, Cabinet Resolution No. 11](#), March 13, 2020.

<sup>1049</sup> [Ministry of Health, Executive Decree N°489](#), March 16, 2020. In Report of the State of Panama to the IACHR for Chapter IV of the IACHR Annual Report 2020, December 16, 2020.

<sup>1050</sup> [Ministry of Health, Executive Decree N°490](#), March 17, 2020. In Report of the State of Panama to the IACHR for Chapter IV of the IACHR Annual Report 2020, December 16, 2020.

<sup>1051</sup> [Ministry of Health, Executive Decree No. 507](#), March 24, 2020.

<sup>1052</sup> [Ministry of the Presidency, Executive Decree N°400](#), March 27, 2020. In Report of the State of Panama to the IACHR for Chapter IV of the IACHR Annual Report 2020, December 16, 2020.

<sup>1053</sup> Report of the State of Panama to the IACHR for Chapter IV of the IACHR 2020 Annual Report, December 16, 2020.

<sup>1054</sup> [Telemetro.com, "Inicio de año escolar 2021 sería en febrero y semipresencial", September 21, 2020.](#)

<sup>1055</sup> Reuters, "[Panama agrees with Pfizer and BioNTech to purchase three million doses of COVID-19 vaccine](#)," November 25, 2020.

<sup>1056</sup> [Ministry of Health, Executive Decree No. 1686](#), December 28, 2020.

<sup>1057</sup> IACHR, Press Release, No. 260/19, "[IACHR expresses concern over the dismissal of the Ombudsman in Panama](#)," October 16, 2019.

<sup>1058</sup> [Office of the Ombudsperson of Panama, "The new Ombudsman, Eduardo Leblanc, meets with t Ombudsperson Maribel Coco de Garibaldi, after being sworn in at the National Assembly", August 26, 2020.](#)

### Democratic institutionalality

525. In the area of **democratic institutionality**, the Inter-American Commission takes note of the information provided by the State regarding the signing by the Executive and the United Nations Development Program (UNDP) of the memorandum of understanding entitled "New process of dialogue leading to a new proposal for constitutional reforms," through which a participatory, transparent, and inclusive dialogue process is to be developed, leading to a proposal for reform of the Constitution. It also reports the passing of Law 153 of May 8, 2020, which amends the Public Procurement Law of 2006, reducing the discretionary leeway accorded to public servants and strengthening the transparency of procurement processes.<sup>1059</sup>

526. With respect to **persons in human mobility**, the Commission takes note of resolution number 15909 of October 30, 2020 of the National Migration Service, which extends until January 31, 2020 the permits in process, provisional permits, non-resident visas, judicial stay visas, migratory regularization procedures, and tourist stays, eschews fines for expiration of permits.<sup>1060</sup> In this regard, the IACHR has pointed out that such measures could have a positive impact on maintaining "migratory regularity" in the context of the pandemic.<sup>1061</sup>

527. With regard to **trafficking in persons**, the Commission takes note of the initiatives taken by the Ministry of Public Security to raise awareness of this crime, the establishment of shelters, and public and private sector training plans.<sup>1062</sup>

528. Regarding the **rights of lesbian, gay, bisexual, trans, gender-diverse, and intersex (LGBTI) persons**, the Commission has received with concern reports of acts of discrimination and violence against trans and gender-diverse persons in the implementation of measures that partially restrict the mobility of persons based on their gender, as part of the containment strategy to address the COVID-19 pandemic in Panama.<sup>1063</sup> Therefore, the IACHR reiterates to the State the duty to guarantee legal, simple, and expeditious mechanisms for exercise of the right to gender identity during the pandemic, which should include training and sensitization of the general population on respect for their human rights, in addition to investigating, prosecuting, and punishing the acts of violence reported.<sup>1064</sup>

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<sup>1059</sup> Report of the State of Panama to the IACHR for Chapter IV of the IACHR 2020 Annual Report, December 16, 2020.

<sup>1060</sup> Ministry of Public Security, [Resolution 15909 of the National Immigration Service](#), Panama, October 30, 2020.

<sup>1061</sup> IACHR, Press Release 077/20 - [IACHR Urges States to Protect the Human Rights of Migrants, Refugees, and Displaced Persons in the Face of the COVID-19 Pandemic](#), Washington D.C., April 17, 2020.

<sup>1062</sup> Ministry of Public Security, [Panama detects 18 victims of human trafficking so far this year 2020](#), July 30, 2020.

<sup>1063</sup> Panama America, [Retienen y multan a transexual por violar violar cuarentena, salió el día que le corresponde a las mujeres](#), April 1, 2020; Human Rights Watch, [Panama's Gender-Based Quarantine Ensnarers Trans Woman](#), April 2, 2020; Human Rights Watch, [Panama: Government Takes Step to End Quarantine Gender Discrimination](#), May 18, 2020; La Estrella, [Human Rights Watch denounces new violations against trans population](#), July 13, 2020; The Guardian, [Panama's trans community failed by gendered lockdown measures](#), Sept. 30, 2020; Hombres Trans Panamá, [A nivel nacional e internacional exigimos se respete la dignidad humana de personas trans en Panamá](#), Dec. 20, 2020; IACHR, [IACHR takes note of the entry into force of Decree 1684 establishing new health measures in the context of the pandemic, including the restriction of access to some commercial establishments, based on the gender of individuals](#), December 21, 2020; Mi Diario, [Security attempts to remove trans woman from 'supermarket' on her day: 'Hasta cuando la homofobia'](#), December 24, 2020.

<sup>1064</sup> IACHR, [Violence against Lesbian, Gay, Bisexual, Trans, and Intersex Persons in the Americas](#), Nov. 12, 2015, paras. 385, 388, 498; IACHR, [Progress and Challenges Toward the Recognition of the Rights of LGBTI Persons in the Americas](#), Dec. 7, 2018, paras. 30, 171, 205; IACHR, Press Release no. 081/2020: [IACHR Calls on States to Guarantee the Rights of LGBTI Persons](#)

529. Also, during its 177th Period of Sessions, the Commission held a hearing on "The Right to Equal Marriage in Panama."<sup>1065</sup> The Commission highlighted the main regional advances in LGBTI rights, while calling on the State of Panama to implement inter-American standards in this area such as Advisory Opinion 24/2017 of the I/A Court H.R. that recognized gender identity and sexual orientation as categories protected by the American Convention on Human Rights. The IACHR welcomes the State's efforts and those of civil society organizations to raise awareness among the population, despite criticism by conservative religious groups.<sup>1066</sup> The Commission also takes note of the termination of the "Yes, I Accept" campaign in Panama City,<sup>1067</sup> and reiterates that States have a duty to guarantee the right to freedom of expression of LGBTI persons.<sup>1068</sup>

530. In relation to the **rights of the elderly**, the Commission highlights the approval by the National Assembly of Law No. 149,<sup>1069</sup> which amends Law 36 of 2016 on "Comprehensive Protection of the Rights of the Elderly", providing greater protection against physical and psychological abuse of the elderly and establishing the responsibility of the State to provide specific health services for rehabilitation and palliative care, among others.

531. Regarding the rights of **children and adolescents**, the IACHR monitored the case of the residential unit "Centro de Atención Integral Fundación Chilibre Panamá" and the complaint filed by the National Secretariat for Children, Adolescents and Family (Senniaf) to the Public Prosecutor's Office regarding mistreatment of children and adolescents. According to the information available, the conditions in the unit were precarious and the children and adolescents were subjected to inhumane treatment. The information sent to the Public Prosecutor's Office states that children with disabilities were handcuffed and that girls suffering from sexually transmitted diseases did not receive adequate medical treatment. It was also reported that 60% of the adolescents received psychiatric medication without the corresponding medical prescription. Regarding the structure of the unit, the information available points to overcrowding, damaged and/or insufficient beds, and the existence of a punishment area that did not have beds, windows, or daylight.

532. On the other hand, the IACHR takes note of the figures presented by the Public Prosecutor's Office of Panama regarding the complaints filed at the national level of crimes against sexual freedom and integrity, which include sexual crimes against children and adolescents. According

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in Response to the COVID-19 Pandemic, April 20, 2020; IACHR, Report on Trans and Gender Diverse Persons and their Economic, Social, Cultural, and Environmental Rights, August 7, 2020, par. 74, recommendations 1, 2, 3, and 6.

<sup>1065</sup> IACHR, Hearing - El derecho al matrimonio igualitario en Panamá, October 2, 2020; IACHR, Fundación Iguales Panamá expuso los desafíos en derechos humanos de las personas LGBTI, October 2, 2020.

<sup>1066</sup> Telemetro, Meduca apologizes for contents in Civica guide "contrary to family conception", Aug. 13, 2020; TVN, Ombudsman offers to mediate on equal marriage, Oct. 5, 2020; DW, Panama: Church criticizes IACHR over equal marriage, Oct. 5, 2020; La Vanguardia, Gay marriage divides Panama, Oct. 10, 2020; La Prensa Panama, Lanzan la campaña 'Sí Acepto', para sensibilizar sobre el matrimonio civil en parejas del mismo sexo, Oct. 16, 2020; La Estrella, IACHR and homosexuals pressure CSJ, Oct. 11, 2020; Metro Libre, Congresswoman Cano issues open letter to explain law on marriages in Panama, Oct. 18, 2020; La Prensa Panama, 'Sobre derechos humanos prima lo social': Rubén Elías Rodríguez, October 31, 2020.

<sup>1067</sup> La Prensa Panamá, Lanzan la campaña 'Sí Acepto', para sensibilizar sobre el matrimonio civil en parejas del mismo sexo, October 16, 2020; Telemetro, Alcaldía de Panamá rechaza ser parte de la campaña LGBTI 'Sí, acepto', November 21, 2020; ECO TV Panamá, El autoritarismo crece sin control, November 25, 2020; El Siglo, La campaña "Sí Acepto", exhibida en 300 mupis fue desinstalada, November 26, 2020.

<sup>1068</sup> IACHR, Progress and Challenges Towards the Recognition of the Rights of LGBTI Persons in the Americas, December 7, 2018, paras. 80, 81, 82, 83, recommendations 5, 8, and 21.

<sup>1069</sup> Law No. 149, "Amending Law No. 36 of 2016, on the comprehensive protection of the rights of the elderly, and adding provisions to the Penal Code", April 24, 2020.

to official numbers, between January and December 2020, 2,204 complaints of crimes directly related to the sexual freedom and integrity of children and adolescents were registered. This number represents a 19% decrease compared to the same period of the previous year.

533. In addition, the IACHR notes with concern that more than 850,000 students were affected by the temporary closure of educational centers in the country as a result of the COVID-19 pandemic, according to information provided by the Ministry of Health. A household survey conducted by UNICEF between May 26 and June 9, 2020 found that 5 out of 10 children had received distance education in the 15 days prior to the application of the survey, with children in lower income households being those most affected by the absence of distance education (only 46% had access to this form of education in the survey period). In addition, the survey showed that, in terms of distance education methods, the official educational network mostly used radio and/or TV lessons, tools that do not allow interaction with teachers, while the private/particular network made use of virtual platforms that do allow such interaction (27% versus 65% for the official and private networks, respectively).

534. Finally, the IACHR highlights the approval of Law 147,<sup>1070</sup> which grants special leave for the care of a child or adolescent with leukemia, cancer, or a serious or terminal degenerative disease.

535. In relation to the **rights of indigenous peoples**, the IACHR has learned of funds received from the World Bank for the purchase of supplies and equipment to counteract COVID-19 in indigenous territories. According to that information, the resources were to be invested in accordance with the action plan prepared by the Ministry of Health and approved by indigenous representatives of the National Council for the Integral Development of Indigenous Peoples. Likewise, the use of indigenous traditional medicine is to be promoted.<sup>1071</sup>

536. Indigenous peoples in Panama face structurally embedded problems with accessing health and other basic services that make them particularly vulnerable to the advance of COVID-19. It has been reported that in indigenous territories such as the Guna Yala, Guna de Madungandí, and indigenous territories in Darien, COVID-19 comes on top of the high incidence of malaria. According to public information, nearly 90% of malaria cases reported in the last decade in Panama have been concentrated in indigenous communities.<sup>1072</sup> Measures to control the entry of outsiders into some indigenous territories in the country and the translation of information materials into indigenous languages have been reported; however, greater coordination between state authorities and indigenous peoples is required to provide comprehensive and culturally appropriate health care, including through the use of traditional medicines and practices, in the face of the spread of COVID-19.<sup>1073</sup>

537. Regarding **women's rights**, the Commission expresses concern about the alert issued by the Ombudsman's Office of the State of Panama regarding the increase in cases of femicide during 2020. Official statistics reveal that between January and October 2020, compared to the same

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<sup>1070</sup> Law 147, "That grants special leave for the care of a child or adolescent with leukemia, cancer or degenerative disease in serious or terminal condition", April 15, 2020.

<sup>1071</sup> Ministry of Government, Approve fund to combat COVID-19 in Indigenous Territories, June 10, 2020.

<sup>1072</sup> SciDevNet, Malaria increases in indigenous peoples of Panama, 13 August 2020.

<sup>1073</sup> Teobaldo Hernández Thompson. Supporting Panama's Indigenous Peoples in the fight against COVID-19, Cultural Survival, October 5, 2020.

period in 2019, femicides increased by 53%; there were also 12,540 complaints of domestic violence, 29 femicides, and 4,525 reports of sexual crimes.<sup>1074</sup> Particularly, regarding cases of sexual violence, the areas with the most cases are Panama with 50 cases, followed by Panama Oeste and Bocas del Toro, both with 27 complaints, and in fourth place Chiriqui with 20.<sup>1075</sup> The IACHR reminds the State of Panama of the importance of implementing urgent measures to prevent and punish violence against women.

538. The Office of the Special Rapporteur learned with concern about the decision of the Panamanian justice system that on June 22 ordered the seizure of the assets of the company Corporación La Prensa S.A. (Corprensa), owners of the newspapers *La Prensa* and *Mi Diario*, in connection with civil proceedings brought by former President Ernesto Pérez Balladares.<sup>1076</sup> The media appealed the decision, which it described as a “direct attack on freedom of the press and the citizens' right to information”. However, in October 2020, the First Superior Court of the First Judicial District confirmed the decision on the seizure of assets. The case began with a civil defamation lawsuit filed in 2012 by the former president as a result of two articles published by the newspaper *La Prensa* that reportedly linked him to an alleged money laundering case.

## PARAGUAY

- **General Considerations**

539. During 2020, the Commission took note of the **progress** made in Paraguay in terms of human rights institutions, highlighting the promotion of the use of the SIMORE Plus International Recommendations System, as well as the progress made in the fight against corruption, through the launch of the National Integrity, Transparency, and Anti-Corruption Plan.

540. On the other hand, the IACHR recognizes some **challenges** faced by the State, mainly in the area of citizen security, in cases of possible abuses in the use of force by State security agents, as well as in guaranteeing the human rights of children and adolescents.

541. The State submitted a response to the request for information sent for the preparation of this chapter on November 10, 2020.

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<sup>1074</sup> Ombudsman's Office Republic of Panama, Ombudsman's Office warns of increase in femicide cases in 2020, November 26, 2020.

<sup>1075</sup> *Mi Diario*, [Rapists live with their victims. Panama reports 4.5 rapes per day amid coronavirus](#), May 3, 2020

<sup>1076</sup> TVN Noticias. [Ernesto Pérez Balladares secuestra \\$1.13 millones en activos de Corprensa](#), July 4, 2020; Infobae, [Ex presidente de Panamá secuestró cuentas y acciones del diario La Prensa](#), July 4, 2020; IPYS, [Panamá: expresidente Ernesto Pérez Balladares secuestra activos de Corporación La Prensa](#), July 5, 2020; La Prensa, [Pérez Balladares pretende silenciar a 'La Prensa'](#), July 6, 2020; IDL Reporteros. [Lo que hay detrás del secuestro de activos de La Prensa de Panamá](#), July 6, 2020.

- **Specific topics**

542. With regard to COVID-19, the State, in dialogue with the IACHR, reported that prior to the declaration of the global pandemic, the country was prepared to take preventive actions, highlighting the adoption of a system of "intelligent quarantine", the declaration of a state of national emergency, night curfews, the suspension of mass events and activities in closed places, as well as the closure of classes at all levels of education.<sup>1077</sup> In addition, as part of the pandemic containment strategy, Paraguay limited entry into the country through its borders<sup>1078</sup> and set up shelters for people coming from abroad to quarantine. Although the containment strategy yielded results in terms of public health,<sup>1079</sup> information provided by civil society organizations reported the separation of some of the families entering the country, as well as poor conditions inside the shelters.<sup>1080</sup> The State denied those allegations and insisted that the shelters were part of a successful strategy that respected the human rights of the population.<sup>1081</sup>

543. Regarding **human rights institutional**ity, MI Resolution No 162/2019 establishes that the Ministry of the Interior is the State agency responsible for the creation and implementation of public policies that guarantee citizen security and democratic governance and contribute to the development of the country and well-being of the population, with a human rights approach.<sup>1082</sup>

544. The IACHR takes note of the efforts made by the Ministry of Justice and the National Directorate of Human Rights to promote the use of the SIMORE Plus International Recommendations System. Several virtual training courses were conducted for focal points, to teach them how to upload data on progress with implementation of the recommendations into the system.<sup>1083</sup> Likewise, the IACHR welcomes the establishment by the General Directorate of Human Rights of a working group with representatives of the Technical Secretariat for Planning to analyze the possibility of initiating a series of training sessions for the focal points of the institutions that make up the Human Rights Network of the Executive Branch.<sup>1084</sup>

545. In terms of **democratic institutions**, the IACHR took note of the launch of the National Integrity, Transparency, and Anti-Corruption Plan on December 9, 2020,<sup>1085</sup> which aims to

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<sup>1077</sup> ABC in the Est. "Only 7% of schools returned to classes yesterday, but they claim there will be more." November 3, 2020.

<sup>1078</sup> Government of Paraguay, Migration: Airport and border closures to remain in effect, April 2020.

<sup>1079</sup> Government of Paraguay, President highlights key role of shelters in preventing community spread of Covid-19, May 18, 2020.

<sup>1080</sup> CODEHUPY, Annual Report on the Human Rights Situation in Paraguay, p. 162 and according to information provided to the IACHR by civil society organizations in the framework of the Social Forum of August 13, 2020.

<sup>1081</sup> ABC, Rechazan supuestas violaciones de DDHH en albergues, September 22, 2020.

<sup>1082</sup> Republic of Paraguay, Informe del Estado de Paraguay sobre avances en DDHH para la elaboración del Informe Anual 2020.

<sup>1083</sup> Ministry of Justice of Paraguay. Ministry of Justice, and Ministry of Foreign Affairs initiate cycle of trainings for #SIMOREPlus uploading. October 9, 2020. Ministry of Justice of Paraguay. "CONADIS organizations were trained for SIMORE Plus management." September 28, 2020.

<sup>1084</sup> Ministry of Justice of Paraguay. "Meetings begin to strengthen follow-up of lines of action linked to HR." April 11, 2020.

<sup>1085</sup> Última Hora, Government unveils ambitious plan to fight corruption and promote transparency, December 9, 2020 y



systematize the actions of a number of institutions in all three branches of government, in order to promote transparency, integrity, and the fight against corruption,<sup>1086</sup> The IACHR welcomes the adoption of the Plan and will continue to monitor progress in the processes initiated to combat corruption, particularly given the ongoing challenges in this area in Paraguay, including the high levels of perception of corruption recorded by institutions specializing in this field.<sup>1087</sup>

546. In the area of **citizen security**, the State informed the IACHR about efforts undertaken as part of its national policy in this area,<sup>1088</sup> including coordination of crime prevention measures between neighborhood commissions and the National Police.<sup>1089</sup>

547. In the specific context of the pandemic, civil society organizations stressed that Paraguay had deployed 24,000 police officers and 3,000 military personnel to supervise compliance with pandemic containment measures and to guard the borders.<sup>1090</sup> Given this extensive participation of military forces in citizen security tasks, the Commission noted that the National Mechanism against Torture called on the military to observe international standards of respect for human rights.<sup>1091</sup>

548. The IACHR also took note of allegations of abuse of public force in the context of citizen security operations. In this regard, the Commission learned of a police operation in the context of quarantine supervision activities in San Lorenzo, in which a 6-year-old boy suffered three gunshot wounds on May 30, 2020,<sup>1092</sup> as well as reports of physical violence against a man in Asunción<sup>1093</sup> and against a woman and her father in Santa Rosa de Lima, San Pedro.<sup>1094</sup> According to information in the public domain, the Prosecutor's Office initiated investigations into these cases.<sup>1095</sup>

549. On the other hand, the Commission took note of, and expressed its concern<sup>1096</sup> regarding, the report of alleged torture by military forces on July 16, 2020 after a

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ABC; [Anti-Corruption Plan Launched, New Government Strategy](#), December 9, 2020.

<sup>1086</sup> Government of Paraguay, SENAC, [Government launches National Integrity, Transparency and Anti-Corruption Plan](#), December 9, 2020.

<sup>1087</sup> Transparency International ranked [Paraguay](#) 137th out of 180 countries in its corruption perception ranking for 2020. Page accessed on February 7, 2021. See also: ABC, [Paraguay, the fifth most corrupt country in Latin America according to Transparency International](#), January 23, 2020; [Paraguay remains one of the most corrupt countries in the Americas](#), January 28, 2021. In addition, the Commission took note of complaints of alleged acts of corruption filed during 2020, including in the context of care for the ABC pandemic, [Denuncian a Salud Pública por otra sobrefacturación](#), August 23, 2020; [Denuncia de respiradores está en manos de fiscalía](#), August 24, 2020.

<sup>1088</sup> Report submitted by the State for the preparation of Chapter IV-A of the Annual Report of the IACHR, introduction.

<sup>1089</sup> Government of Paraguay, [Ministry of the Interior, Vice-Ministry of Political Affairs continues liaison tasks between neighborhood commissions and the National Police, to strengthen joint work on citizen security](#), August 20, 2020.

<sup>1090</sup> Amnesty International, [When Protection Becomes Repression](#), p. 21.

<sup>1091</sup> MNPT, [MNP urges unrestricted respect for human rights in the framework of the health emergency](#), March 18, 2020.

<sup>1092</sup> ABC, [Prosecutor's Office assures that it is not possible to speak of an accident](#), June 1, 2020.

<sup>1093</sup> ABC, [Family denounces alleged police abuse](#), June 8, 2020.

<sup>1094</sup> Paraguay.com, [Police officer is recorded assaulting a woman and her father](#), June 8, 2020.

<sup>1095</sup> Paraguay.com, [Procesan a policías 'gatillo fácil'](#), May 31, 2020 and ABC, [Familia denuncia supuesto abuso policial](#), June 8, 2020. .

<sup>1096</sup> IACHR, [Tweet](#), July 19, 2020.

confrontation with people from the San Miguel neighborhood in Ciudad del Este, which led to the detention of 35 people, including 3 trans persons and 6 adolescents, and, reportedly, the death of a sailor.<sup>1097</sup> The IACHR calls on the State to ensure prompt, ex officio, and impartial examination of the case, and to initiate, where appropriate, the respective criminal proceedings.

550. The Commission also learned of reports of an operation by the Paraguayan Joint Task Force (FTC) against the Paraguayan People's Army (EPP) guerrilla group in Yby Yau, Department of Concepción, in which two girls died on September 2, 2020<sup>1098</sup> (see the section on children and adolescents in this chapter).

551. The IACHR has also closely monitored reports on the kidnapping of Óscar Denis, former vice-president of the country, which occurred in September 2020 and was attributed by state authorities to the EPP.<sup>1099</sup> Along with Denis, Adelio Mendoza was kidnapped and released on September 14, 2020.<sup>1100</sup> The Commission recognizes the State's efforts to investigate those acts and calls on the authorities to adopt the measures needed to guarantee Óscar Denis' prompt release, prevent kidnappings, and ensure the effectiveness of its urgent search mechanisms.

552. Regarding **access to justice**, the Commission took note of reports by the Supreme Court of Justice of Paraguay showing an increase in the number of judicial rulings handed down in 2020.<sup>1101</sup> In addition, the IACHR welcomes the Supreme Court's efforts to present public information, ex officio, on judicial proceedings in corruption cases.<sup>1102</sup> During the bilateral dialogue with the State, the Commission heard about the measures adopted to ensure continuity in the provision of judicial services during the COVID-19 pandemic. Subsequently, it took note of the approval of a Guide for the conduct of court hearings by electronic means as part of the State's efforts to prevent the spread of COVID-19.<sup>1103</sup>

553. On the other hand, the IACHR learned of the designation of special courts to hear cases of violations of health measures in the context of the pandemic.<sup>1104</sup> According to information provided by civil society organizations, 2,942 people were prosecuted for non-compliance with health

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<sup>1097</sup> Última Hora, A 12 años del informe Verdad y Justicia, exigen castigo a militares por torturas en CDE, August 27, 2020.

<sup>1098</sup> Ministry of Foreign Affairs of the Republic of Paraguay, Paraguay informs OAS on operation in the North against the EPP criminal group, September 9, 2020.

<sup>1099</sup> Denis remains kidnapped as of the date of writing this chapter (February 6, 2021). Today, 151 days after the kidnapping of Óscar Denis there is no progress, February 6, 2021.

<sup>1100</sup> Insight Crime, Paraguay's EPP Seemingly Transformed Under New Leadership, September 22, 2020. In addition, during 2020, the Commission continued to receive information on Edelio Morínigo, kidnapped by the EPP, and Félix Ubieta, kidnapped by the criminal group "Ejército del Mariscal López," who have remained kidnapped since 2014 and 2016, respectively. See: NPY, Concepción exige paz, September 14, 2020; Hoy, Mamá de Edelio anuncia que mañana se va a crucificar, September 15, 2020 and Última Hora, Hija de Félix Ubieta: Papá no te olvidamos ni un segundo, September 13, 2020.

<sup>1101</sup> According to available information, courts and tribunals throughout the country issued a total of 593,733 resolutions, surpassing the established goal of 541,961 documents. CSJ, Poder judicial dictates 593,733 resolutions, January 13, 2021.

<sup>1102</sup> CSJ, Judicial Observatory counts 74 corruption proceedings and Information on 74 cases are updated in the Judicial Observatory, January 31, 2021.

<sup>1103</sup> CSJ, Approve guide to telematic hearings, December 19, 2020.

<sup>1104</sup> CSJ, Criminal cases linked to COVID-19 will be purged, May 13, 2020.

measures between March and September 2020.<sup>1105</sup> The IACHR highlights the concern expressed by civil society organizations that some people who committed such offenses were deprived of liberty (pretrial detention). In this regard, the IACHR reiterates the recommendation contained in its Resolution 1/2020 regarding the adoption of measures to address the overcrowding of detention units, including reevaluation of pretrial detention cases to identify those in which alternatives to incarceration are an option, whereby priority should be accorded to populations at higher risk of infection with COVID-19, mainly the elderly and pregnant women or women breastfeeding children.

554. With regard to the rights of **children and adolescents**, the IACHR welcomes the enactment of Law No. 6486/20 on the promotion and protection of the right of children and adolescents to live in a family and regulating alternative care measures and adoption.<sup>1106</sup> According to information provided by the State, the new legislation replaces the previous adoption law that had been in force since 1997 and aims, in particular, to speed up procedures for the restitution of rights to children and adolescents deprived of family care.<sup>1107</sup>

555. The IACHR also notes with satisfaction that, in August, the State adopted the National Plan for Children and Adolescents of Paraguay 2020-2024, which has five main pillars: : the forging of a national system for the protection and promotion of the rights of children and adolescents; a focus on the participation of children and adolescents; promotion of comprehensive development; protection and restitution of rights; and “communication for education”.<sup>1108</sup> In particular, the IACHR commends the State's initiative to develop the Plan using a participatory process that involved civil society organizations and public bodies at different levels.<sup>1109</sup>

556. The IACHR also monitored the above-mentioned case of two 11-year-old Argentine girls who died on September 2 during an operation by the Paraguayan Joint Task Force (FTC) against the Paraguayan People's Army (EPP), in Yby Yaú, in the department of Concepción.<sup>1110</sup> In this regard, under powers vested in it by Article 41 of the Convention, the IACHR requested information from the State regarding steps it had taken to ensure diligent, impartial, and independent investigation of the facts.<sup>1111</sup> In its response to the Commission, the State provided detailed information on the aforementioned security operation and on the investigations initiated by three specialized prosecutorial units of the Public Prosecutor's Office.<sup>1112</sup> The IACHR also notes that the State filed a

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<sup>1105</sup> CODEHUPY, Annual Report on the Human Rights Situation in Paraguay, p. 356.

<sup>1106</sup> Republic of Paraguay, Law No. 6486 on the promotion and protection of the right of children and adolescents to live in a family, which regulates alternative care measures and adoption, February 4, 2020.

<sup>1107</sup> IP Agencia de Información Paraguaya, El Poder Ejecutivo promulgó nueva ley de adopciones, February 5, 2020.

<sup>1108</sup> IP Agencia de Información Paraguaya, Minna presented national plan that prioritizes the comprehensive protection of children and adolescents, August 28, 2020.

<sup>1109</sup> CDIA, El Plan Nacional de Niñez y Adolescencia busca garantizar una vida mejor a niñas, niños y adolescentes de Paraguay, November 11, 2020.

<sup>1110</sup> Ministry of Foreign Affairs of the Republic of Paraguay, Paraguay informs OAS on operation in the North against the EPP criminal group, September 9, 2020.

<sup>1111</sup> IACHR, Request for Information to the State of Paraguay, Note No. 484-20/IACHR/SE/MPCT-Art.41, IACHR Archive, October 2, 2020.

<sup>1112</sup> Ministry of Foreign Affairs of the Republic of Paraguay, Response to the request for information, Note No. 837-20/MPP/OAS, IACHR file, October 29, 2020. Ministry of Foreign Affairs of the Republic of Paraguay, Complementary information in the response to the request for information, Note No. 032-21/MPP/OAS, IACHR file, January 14, 2021.

formal complaint against the EPP for using children and adolescents to commit crimes<sup>1113</sup> and that the Parliamentary Front for the Rights of Children and Adolescents has been working on a bill to criminalize that practice.<sup>1114</sup> On February 8, 2021, the State also informed the IACHR of the publication of a press release in which it reiterated "its repudiation and condemnation of the despicable practice by the EPP criminal group of using and exploiting children and adolescents for illicit purposes."<sup>1115</sup>

557. With regard to the **rights of persons in human mobility**, the Commission noted the measures adopted by the State in the context of the COVID-19 pandemic to: i) extend the expiration dates of documents issued by the General Directorate of Migration (DGM) that had expired as of March 13, ii) accept documents that had expired during the quarantine to carry out migration procedures,<sup>1116</sup> and iii) waive the payment of fines for migrants whose stay permits had also expired as of March 13 and for the duration of restrictions on regularizing their migration status or return to their countries.<sup>1117</sup> With regard to **trafficking in persons**, the Commission notes that the Ministry of Women, in its fight against internal labor exploitation launched a nationwide *WhatsApp* campaign to mitigate the social and economic effects caused by COVID-19.<sup>1118</sup>

558. Regarding **women's rights**, the State reported that the Ministry of Women's Affairs had adopted protocols for the care of women in the context of the pandemic, including telephone hotlines and virtual days for the prevention of violence. The IACHR also took note of the extensions of the judicial protection measures decreed for survivors of violence, at the request of a party.<sup>1119</sup>

559. The Commission took note of statements made by the National Police and voiced its concern about the cases of domestic violence reported during the measures to prevent the spread of COVID-19<sup>1120</sup><sup>1121</sup>, and about at least 29 femicides reported by the Public Prosecutor's Office.<sup>1122</sup>

560. The IACHR kept close track of the legal situation of Maria Belen Whittingslow Casteño, a student who denounced a professor for sexual harassment and, in turn, was denounced for allegedly falsifying grades at her university.<sup>1123</sup> According to the information available, she has reportedly received international protection in Uruguay.<sup>1124</sup> Under the powers vested in it by Article

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<sup>1113</sup> ABC, [Ejecutivo denuncia al EPP por reclutamiento de niños y adolescentes](#), September 8, 2020.

<sup>1114</sup> ABC, [Bill criminalizing the recruitment of children is refined](#), November 16, 2020.

<sup>1115</sup> Ministry of Foreign Affairs of the Republic of Paraguay, Follow-up to the request for information, Note No. 109-21/MPP/OAS, IACHR file, February 8, 2021.

<sup>1116</sup> Permanent Mission of Paraguay to the OAS, Report to the Inter-American Commission on Human Rights (IACHR) 2020 to the General Assembly of the Organization of American States (OAS), September 2020, p. 32.

<sup>1117</sup> Permanent Mission of Paraguay to the OAS, Report to the Inter-American Commission on Human Rights (IACHR) 2020 to the General Assembly of the Organization of American States (OAS), September 2020, p. 33.

<sup>1118</sup> Ministry of Women's Affairs, [Launch communication campaign against Human Trafficking](#), July 20, 2020.

<sup>1119</sup> CSJ, [Supreme Court Circular 8/2020](#), March 27, 2020.

<sup>1120</sup> Última Hora, Police records increase in family violence in quarantine, March 24, 2020.

<sup>1121</sup> According to official information from the National Civil Police Statistics Service and collected by CODEHUPY, [Annual Report on the Human Rights Situation in Paraguay](#), p. 99.

<sup>1122</sup> DEHUPY, [Annual Report on the Human Rights Situation in Paraguay](#), p. 102.

<sup>1123</sup> According to information provided by Whittingslow's family members to the IACHR.

<sup>1124</sup> ABC, [Piden Captura Internacional de joven que denunció a Kriskovich](#), August 12, 2019 and ABC, [Joven que acusó a Kriskovich por acoso sexual fue a Uruguay para obtener refugio](#), August 9, 2019.

41 of the Convention, the IACHR requested information from the State on the status of the investigations against her, as well as of the criminal proceedings that she brought against her aggressor and on the protocols that exist in Paraguay regarding the investigation, prevention, and punishment of criminal acts committed against women in an educational context.<sup>1125</sup> The State of Paraguay did not respond to the request for information sent by the IACHR.

561. On the other hand, the Commission received information from women's organizations denouncing the criminalization of the peaceful exercise of protest, in a case in which some demonstrators allegedly caused damage to public buildings during citizen demonstrations.<sup>1126</sup>

562. Regarding the rights of **lesbian, gay, bisexual, trans, gender-diverse, and intersex persons**, the Commission noted with satisfaction the enactment of Resolution 1287/2020 of the Ministry of Public Defense, which approved the protocol for attending to LGBTI persons who apply for Public Defense. This protocol includes provisions to ensure respect for gender identity and prevent discrimination.<sup>1127</sup>

563. Regarding the human rights situation of trans and gender-diverse persons, the IACHR welcomes the reinstallation of the Multisectoral Roundtable on the Human Rights Situation of Trans Persons, made up of civil society organizations and government representatives<sup>1128</sup>; in addition, the Commission received information on the opening of a wing for trans and gender-diverse persons in the Padre Juan Antonio de la Vega Penitentiary, in order to protect their lives and personal integrity.<sup>1129</sup>

564. On the other hand, the IACHR [welcomed](#) the swearing in before the Supreme Court of Justice of the first transgender lawyer, who thereby overcame the obstacles to the practice of her profession that she had faced since she obtained her degree in 2015.<sup>1130</sup> Regarding ongoing challenges, the Commission highlights the alerts raised by trans and gender-diverse persons who, due to the absence of legal and registry recognition of their gender identity and expression, have not been able to receive the benefits of social assistance programs established during the pandemic.<sup>1131</sup>

565. Regarding violence and discrimination against **LGBTI persons**, the IACHR took note that, according to civil society organizations, during 2020, reports of violence and discrimination against LGBT persons in the country increased, particularly in the context of pandemic containment measures. At least 370 such acts were reported during 2020.<sup>1132</sup> In addition, the Commission took note

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<sup>1125</sup> IACHR, Request for Information to the State of Paraguay, Note No. IACHR/SE/Art.41/4-2020/9 Art. 41, IACHR Archive, April 2020.

<sup>1126</sup> ODEHUPY, [Annual Report on the Human Rights Situation in Paraguay](#), p. 148.

<sup>1127</sup> Ministry of Public Defense of Paraguay, [Resolution 1287/2020](#)

<sup>1128</sup> CODEHUPY, [State Institutions and Civil Society unite to work for the rights of the LGBTI community](#), June 19, 2020.

<sup>1129</sup> Today, [Trans persons deprived of liberty will have an exclusive ward](#), September 4, 2020.

<sup>1130</sup> IACHR, [Tweet](#), November 13, 2020.

<sup>1131</sup> Posa Guinea, Rosa and Carolina Robledo Desh, Mariana Sepúlveda and Erwing Augsten, Resistir es Crear, in CODEHUPY, [Informe Anual sobre la Situación de Derechos Humanos en Paraguay](#), p. 81,

<sup>1132</sup> According to information from the documentation center and registry of violence against trans persons of the Panambi Association and the Rohendu service of Aireana, as well as the Center for Counseling and Complaints HIV/AIDS and

of reports of the challenges faced by LGBTI persons due to the lack of legal recognition, on equal terms, of their marriages, unions, and filial ties.<sup>1133</sup>

566. In relation to the rights of **indigenous peoples**, the IACHR has become aware of problems related to the lack of a comprehensive health care system for indigenous peoples in the context of the COVID-19 pandemic. According to public information, these have to do with inadequate medical equipment and human resources in health centers and the lack of coordinated measures for prevention and protection against COVID-19 in indigenous regions. The pandemic has also generated economic impacts, and indigenous communities have faced food crises, water shortages, drought, and forest fires in their territories.<sup>1134</sup> Indigenous representatives informed the IACHR about their own initiatives to deliver food and biosecurity elements to indigenous communities, and to carry out communication campaigns on COVID-19, as well as measures to control access to community territories.<sup>1135</sup> They also reported on the Protocol for entry to indigenous communities during the pandemic drawn up by the Paraguayan Institute of Indigenous People (INDI) as a guidance measure to regulate the entry of people into indigenous communities.<sup>1136</sup>

567. The IACHR also received information on the conflicts faced by indigenous peoples due to the activities of private individuals and agribusinesses that have triggered evictions by armed civilians. In this regard, information was provided on clashes and evictions faced by the communities of Veraró, Guyra Payu, Huguá Po'I, and Jacuí Guasú throughout 2020.<sup>1137</sup> Likewise, an increase in illegal logging has been reported in the Gran Chaco, as a result of cattle ranching activities linked to the global leather industry, in which corruption on the part of some national authorities has been alleged.<sup>1138</sup> These activities pose a serious threat to the Ayoreo Totobiegosode people in voluntary isolation despite their being beneficiaries of precautionary measures granted by the IACHR in 2016 ordering the State to take measures to protect their lives, personal integrity, and ancestral territory.<sup>1139</sup>

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Human Rights Paraguay, cited by Posa Guinea, Rosa and Carolina Robledo Desh, Mariana Sepúlveda and Erwing Augsten, Resistir es Crear, in CODEHUPY, Informe Anual sobre la Situación de Derechos Humanos en Paraguay, p. 81,

<sup>1133</sup> Agencia Presentes, Paraguay's diverse families battle for visibility and rights, December 2, 2020.

<sup>1134</sup> Julia Cabello Alonso and Óscar Ayala Amarilla, Derechos de los Pueblos Indígenas: Desamparo, Crisis Alimentaria, Desalojos: Rastros de la Violencia hacia Pueblos Indígenas, Tierraviva - CODEHUPY (2020), pp. 51-2.

<sup>1135</sup> Presentation by Hipólito Acevei Federación por la Autodeterminación de los Pueblos Indígenas - Paraguay, Foro de líderes y lideresas indígenas sobre la situación de derechos humanos de los pueblos indígenas de la Panamazonía y Gran Chaco (July 3, 2020).

<sup>1136</sup> INDI, INDI reinforces health protection in indigenous communities with entry protocol (May 8, 2020).

<sup>1137</sup> Julia Cabello Alonso and Óscar Ayala Amarilla, Derechos de los Pueblos Indígenas: Desamparo, Crisis Alimentaria, Desalojos: Rastros de la Violencia hacia Pueblos Indígenas, Tierraviva - CODEHUPY (2020), pp. 53-56.

<sup>1138</sup> Earthsight, GrandTheftChaco: Luxury cars made using leather from land stolen from an uncontacted tribe, September 2020.

<sup>1139</sup> IACHR, Resolution 4/2016, Precautionary Measure 54-12 Case of communities in voluntary isolation of the AyoreoTotobiegosodePeoplewith respect to Paraguay, February 3, 2016.

## PERU

### ● General Considerations

568. With regard to **progress**, the Commission took note of the advances made in the areas of human rights institutions, access to health care for children, the rights of persons in human mobility, measures against human trafficking, the rights of persons of African descent, and actions against racial discrimination. The IACHR welcomes Peru's adherence to the Inter-American Convention on the Protection of the Human Rights of Older Persons.

569. In terms of **challenges**, the IACHR expressed its concern about challenges to democratic institutionality following the political crisis caused by the declaration of a presidential vacancy in November 2020, as well as human rights violations that occurred in the context of social protests. It also took note of difficulties in accessing health care in the context of the COVID-19 pandemic and attacks against defenders of the rights of indigenous peoples and the environment.

570. The State did not respond to the request for information sent for the preparation of this chapter.

### ● Specific topics

571. In the face of the **COVID-19** pandemic, the IACHR highlights the measures adopted to contain the spread of the virus. In Peru, the first case was registered on March 6. On March 12, a state of sanitary emergency was declared and on March 16, a state of national emergency was decreed. As a result, various preventive actions were taken to contain the virus, such as the imposition of curfews, the closure of educational establishments, and the total closure of borders. In October, a gradual re-opening of borders began, provided that visitors comply with the established migratory requirements, such as a negative PCR-RT<sup>1140</sup> test result. Although strategies have been implemented for the gradual reactivation of the country's economic and social life, school classes were still suspended as of the date of this report.

572. The IACHR received information on difficulties in access to health care in the context of the pandemic, particularly in the case of vulnerable individuals and groups. Information was received on the shortage of beds in Intensive Care Units, which generated concerns about possible situations of discrimination against older persons in access to ICUs.<sup>1141</sup> The IACHR voiced its concern about the lack of availability of oxygen for the treatment of persons hospitalized by COVID-19 due to the excessive prices demanded by the companies that manufacture it. According to available information, the State issued an emergency decree to increase production and access to medical oxygen.<sup>1142</sup><sup>1143</sup> The IACHR also issued a statement on the health crisis in the Urban Indigenous Community of Cantagallo, where high levels of contagion of up to 73 percent were recorded. The IACHR called on the State to develop coordinated and culturally appropriate measures to address

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<sup>1140</sup>Andina. "[Government announces upcoming reopening of land borders.](#)" October 21, 2020.

<sup>1141</sup>Focus Right, [For ICU there is no age; criteria for non-discriminatory access to care in times of COVID-19.](#) May 28, 2020.

<sup>1142</sup>IACHR Twitter, [June 4, 2020.](#)

<sup>1143</sup>RPP, [The Executive published an Emergency Decree that dictates measures to increase production and access to medical oxygen.](#) June 4, 2020.



contagion in that community, taking into account the pre-existing conditions of vulnerability in which it has lived with respect to its economic, social, cultural and environmental rights and which created the conditions for such a virulent spread of COVID-19.<sup>1144</sup>

573. In terms of **human rights institutions**, the IACHR learned that in July, the internal guidelines of the Ombudsperson's Office were published to protect human rights defenders from attacks, in compliance with Sustainable Development Goal 16.<sup>1145</sup> The IACHR welcomes the inclusion of the Ombudsperson's Office as a member of the Working Group on Aging of the Global Alliance of National Human Rights Institutions (GANHRI). This group aims to promote, protect and monitor the human rights of this population group, in the framework of compliance with the Paris Principles.<sup>1146</sup>

574. The Commission also highlights the implementation of the Third Human Rights Plan 2018-2021 (PNDH) promoted by the Ministry of Justice and Human Rights. The PNDH is aimed at guiding efforts by the various sectors of the Executive Branch and national, regional and local governments to guarantee rights for all people, reinforcing the human rights approach in public management.<sup>1147</sup>

575. The IACHR welcomes the adherence of the Peruvian State to the Inter-American Convention on the Protection of the Human Rights of Older Persons on January 13, 2021. The instrument of accession was deposited with the General Secretariat of the Organization of American States on March 1, 2021.<sup>1148</sup>

576. With respect to **democratic institutions**, the IACHR expressed its concern regarding the declaration of presidential vacancy on November 9, 2020. This declaration by the Congress of the Republic was based on the notion of "moral incapacity".<sup>1149</sup> The IACHR observed that this concept is so poorly defined that it provides a high degree of discretionary leeway in its interpretation.<sup>1150</sup> Given the crisis unleashed by the vacancy, the IACHR conducted a working visit to Peru from November 29 to December 2, 2020 in order to observe on the ground the human rights situation in the context of the social protests.<sup>1151</sup> Following its visit, the IACHR stressed the importance of the division and balance of powers for constitutional democracy and the importance of access to and exercise of power subject to the rule of law in order to ensure that the removal of a democratically and constitutionally elected president is not left to the discretionary political decision of other branches of government.<sup>1152</sup>

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<sup>1144</sup> IACHR, Press Release 120/20, IACHR warns of health crisis in the Urban Indigenous Community of Cantagallo, Peru, Washington D.C., May 27, 2020.

<sup>1145</sup> Ombudsperson's Office. "Ombudsman's Office approves guidelines to protect human rights defenders." July 4, 2020.

<sup>1146</sup> Ombudsperson's Office. "We are part of the Working Group on Aging of the Global Alliance of National Human Rights Institutions -IGANHRI." February 4, 2020.

<sup>1147</sup> Human Rights Observatory. "National Human Rights Plan."

<sup>1148</sup> Permanent Mission of Peru to the OAS, Note No. 7-5-M/029, March 1, 2021.

<sup>1149</sup> IACHR, Press Release 270/20. The IACHR calls on the State of Peru to guarantee democratic institutions and the full validity of the rule of law, in view of the declaration of presidential vacancy. Washington D.C., November 11, 2020.

<sup>1150</sup> IACHR, Press Release 290/20. IACHR concludes working visit to Peru. Washington D.C., December 7, 2020.

<sup>1151</sup> IACHR, Press Release 285/20. IACHR announces working visit to Peru in the context of social protests related to the recent institutional crisis. Washington D.C., November 25, 2020.

<sup>1152</sup> IACHR, Press Release 290/20. IACHR concludes working visit to Peru. Washington D.C., December 7, 2020.

577. In relation to **citizen security**, the IACHR expressed its concern regarding acts of repression by the National Police in the context of the social protests that occurred as a result of the political crisis of November 2020. The actions denounced included: the disproportionate use of force (asphyxiating tear gases that reached both demonstrators and non-demonstrators); attacks on the personal integrity of journalists covering the protests and against personnel of the Ombudsperson's Office; and shootings of protesters by persons allegedly pertaining to the "Grupo Terna" National Police unit. This resulted in the deaths of two youths (Jordan Inti Sotelo Camargo and Jack Bryan Pintado Sánchez) and at least 92 people were injured. Likewise, in the context of the demonstrations, cases of arbitrarily detained adolescents were reported, as well as acts of sexual violence and other humiliating, degrading, and discriminatory treatment against two female detainees.<sup>1153</sup> The Commission also highlighted its concern regarding public statements made by State authorities aimed at delegitimizing social protest.<sup>1154</sup>

578. Regarding **access to justice**, the IACHR received information on various investigations and proceedings by the Public Prosecutors' Office in relation to the events that occurred in the context of the aforementioned social protests. This included visits by prosecutors to police stations, hospitals, and other health facilities to take testimony from persons affected by the police actions, the implementation of an Evidence Collection System, as well as the search for persons who were reported missing. The IACHR was informed that the Attorney General's Office opened investigations into the death of the two young men who died during the protests and cases of forced disappearance. In addition, the Prosecutors' Office opened a preliminary investigation into those who held the positions of President of the Republic, Prime Minister and Minister of the Interior during the protests, for the alleged commission of the crimes of abuse of authority, intentional homicide with respect to the death of the two young men, serious and minor injuries, and forced disappearance.<sup>1155</sup> The IACHR took note of the challenges faced by the Prosecutor General's Office in conducting these investigations, due to the lack of electronic resources, the lack of physical space for taking testimony, and the need to rely on its own investigative police and strengthen the human rights approach of its staff.<sup>1156</sup> The IACHR received information on administrative investigations within the National Police aimed at identifying disciplinary responsibilities.<sup>1157</sup>

579. The IACHR appreciates that, in his inauguration ceremony, the current President of the Republic publicly apologized on behalf of the State for the death of the two deceased adolescents and extended apologies to the demonstrators who were injured, their families, and the young people who participated in the marches.<sup>1158</sup> The IACHR was also informed about some measures of reparation for the events referred to, notably the formation of an inter-ministerial group, with the participation of the families of the deceased youths and civil society to establish responsibilities, adopt measures of non-repetition and establish a system of protection for the families of the victims and other affected persons. The IACHR reiterates its willingness to provide technical assistance to the State and to the human rights victims in relation to the implementation of comprehensive reparation measures aimed

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<sup>1153</sup> IACHR, Press Release 290/20. [IACHR concludes working visit to Peru](#). Washington D.C., December 7, 2020.

<sup>1154</sup> IACHR, Press Release 275/20. [The IACHR condemns human rights violations that occurred in the context of the social protests in Peru, calls for the resolution of the institutional crisis through democratic means, and places itself at the disposal of the State to conduct a working visit](#). Washington D.C., November 16, 2020.

<sup>1155</sup> IACHR, Press Release 290/20. [IACHR concludes working visit to Peru](#). Washington D.C., December 7, 2020.

<sup>1156</sup> IACHR, Press Release 290/20. [IACHR concludes working visit to Peru](#). Washington D.C., December 7, 2020.

<sup>1157</sup> IACHR, Press Release 290/20. [IACHR concludes working visit to Peru](#). Washington D.C., December 7, 2020.

<sup>1158</sup> IACHR, Press Release 290/20. [IACHR concludes working visit to Peru](#). Washington D.C., December 7, 2020.

at addressing the underlying causes of the human rights violations and at having a symbolic impact that contributes to satisfaction for victims and next of kin and to non-repetition of the facts.<sup>1159</sup>

580. With regard to **human rights defenders**, the Commission learned of the murder of indigenous leader and territorial defender Arbildo Meléndez Grandez, which reportedly occurred on April 12, 2020 in the district of Puerto Inca, Department of Huánuco<sup>1160</sup>; the murder of indigenous leader and territorial defender Gonzalo Pío, which occurred on May 17, 2020 in the Province of Satipo, Junín<sup>1161</sup>; and the murder of environmental defender Roberto Pacheco Villanueva, which according to public sources occurred on September 11, 2020 in the Department of Madre de Dios.<sup>1162</sup>

581. In addition, during its working visit to Peru, in the context of the social protests, the IACHR received information regarding acts of intimidation, verbal aggression, and shoving committed by National Police officers against fully identified personnel of the Ombudsperson's Office in order to prevent them from carrying out their duties.<sup>1163</sup> The IACHR also received information on aggressions against volunteers attempting to assist the injured (*brigadistas*).

582. In relation to **memory, truth and justice**, the Commission welcomes the implementation of a reparations program for victims and family members of victims of the armed conflict in the Pasco area. According to public information, the program includes economic compensation or access to health or education services, as well as symbolic or collective reparation.<sup>1164</sup> Likewise, the IACHR highlights the reunions with their families of persons who disappeared during the 1980-2000 period of violence in Peru, thanks to the efforts of the General Directorate for the Search for Disappeared Persons of the Ministry of Justice and Human Rights.<sup>1165</sup> With respect to historical memory sites, the Commission noted with concern the information that the area reserved for construction of the La Hoyada memory sanctuary could be affected by an airport expansion project approved by the National Superintendency of State Property.<sup>1166</sup> Likewise, the IACHR repudiated<sup>1167</sup> the attack on the "El Ojo que Lloro" Memorial and called on the Peruvian State to investigate the facts and take steps to protect it.<sup>1168</sup>

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<sup>1159</sup> IACHR, Press Release 290/20, [IACHR concludes working visit to Peru](#), Washington D.C., December 7, 2020.

<sup>1160</sup> FIDH, Peru: [Assassination of Mr. Arbildo Menéndez Grandez, defender of indigenous rights and territory](#), May 5, 2020; OMCT, Peru: [Assassination of indigenous leader Arbildo Menéndez Grandez](#), May 5, 2020.

<sup>1161</sup> IACHR, Twitter, May 27, 2020. <https://twitter.com/cidh/status/1265794568643100673>. <https://twitter.com/cidh/status/1265794568643100673>

<sup>1162</sup> El Comercio, [Madre de Dios: asesinan de dos balazos a defensor ambiental](#), September 13, 2020; RPP Noticias, [Defensores ambientales: un nuevo asesinato que hoy lamentamos](#), September 14, 2020.

<sup>1163</sup> IACHR, Press Release No. 290/20, [IACHR concludes working visit to Peru](#), December 7, 2020.

<sup>1164</sup> Sputnik, [Peruvian Justice Ministry authorizes compensation for victims of the armed conflict](#), September 4, 2020. See also [Government of Peru delivers economic reparations to 768 victims of armed conflict](#), September 22, 2020.

<sup>1165</sup> Andina, [Wille Castañeda: he was kidnapped by SL in 1986 and today he was reunited with his family](#), December 11, 2020; Andina, [Minijussh made possible family reunion of person disappeared in 1982](#), December 14, 2020.

<sup>1166</sup> Sitios de memoria.org, [RESLAC asks the Peruvian government to preserve the La Hoyada Memory Sanctuary and respect the agreements assumed](#), October 19, 2020; Amnesty International, [Peruvian State must respect the land destined for the La Hoyada Memory Sanctuary in Ayacucho](#), October 14, 2020.

<sup>1167</sup> IACHR, [Tweet](#), December 15, 2020.

<sup>1168</sup> El Comercio, [Jesús María: vandalism attack against the El ojo que llora memorial](#), December 14, 2020.

583. Regarding the rights of **the elderly**, the Commission welcomes the approval by the Plenary of the Congress<sup>1169</sup> of the Inter-American Convention for the Protection of the Rights of Older Persons, which constitutes a step forward in the promotion and protection of, and guarantees for, the recognition and full enjoyment and exercise, under conditions of equality, of all human rights and fundamental freedoms of the elderly.

584. The Commission also highlights the measures adopted by the Peruvian State in the context of the COVID-19 health emergency in relation to older persons deprived of liberty, which include age among the criteria for evaluating and proposing the granting of common pardons and pardons for humanitarian reasons, as well as commutations of sentences, thereby contributing to better protection of the right to health and life of older persons deprived of liberty.<sup>1170</sup>

585. On the situation of **people of African descent and measures against racial discrimination**, the Inter-American Commission welcomes the passing by the Peruvian Congress of Law No. 31049 of 2020,, which declares July 25 of each year as the National Day of Afro-Peruvian Women.<sup>1171</sup> The IACHR welcomes these legislative advances and recalls the duty of States to adopt domestic legal provisions that define, prohibit, and punish racism, including direct and indirect racial discrimination and all forms of intolerance.

586. Regarding the rights of **lesbian, gay, bisexual, trans, gender diverse, and intersex (LGBTI) persons**, the Commission welcomes the judicial decision that orders the National Identification and Civil Status Registry to implement an administrative procedure enabling trans and intersex persons to adapt the data on their documents to conform to their gender identity, in accordance with inter-American standards on the matter.<sup>1172</sup> Likewise, the Commission welcomes the publication of Legislative Decree No. 1470, which establishes specific measures to reinforce the State's responses to cases of violence against women and family members during the COVID-19 pandemic and bans discrimination based on gender identity and sexual orientation.<sup>1173</sup> Also, the Commission welcomes the publication of the enabling regulations complementing Emergency Decree No. 63-20 that regulate the delivery of financial assistance to family members of health workers who died due to COVID-19, including same-sex partners.<sup>1174</sup>

587. The Commission welcomes the survey conducted by the Ministry of Justice and Human Rights to collect data related to the number of LGBTI persons at the national level.<sup>1175</sup>

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<sup>1169</sup> Congressional News Center, "Congress ratifies Inter-American Convention on the Rights of the Elderly," December 12, 2020.

<sup>1170</sup> Supreme Decree N°004-2020-JUS, "Supreme Decree that establishes special criteria and procedures for the evaluation and proposal of recommendations for Presidential Pardons, in the framework of the COVID-19," April 23, 2020.

<sup>1171</sup> Official Gazette El Peruano, Law No. 31049

<sup>1172</sup> Promsex, The Judiciary orders Reniec to implement an administrative procedure that allows trans and intersex persons to change data in their DNI to reflect their gender identity. August 3, 2020.

<sup>1173</sup> IACHR, IACHR welcomes publication of Legislative Decree 1470, August 27, 2020.

<sup>1174</sup> IACHR, The IACHR welcomes the publication of the complementary norms to Emergency Decree 63-20, August 8, 2020; El Peruano, Aprueban Lineamientos para el reconocimiento de convivientes del mismo sexo del personal de la salud fallecido a consecuencia del COVID-19, August 21, 2020.

<sup>1175</sup> El Popular, Pride Day: LGBT community is larger than the total population of Arequipa inhabitants and is equal to that of the two most populated regions after Lima, June 28, 2020.

588. The Commission has received with concern information related to acts of discrimination and violence against LGBTI persons, especially trans and gender-diverse persons.<sup>1176</sup> In that regard, the Commission takes note of the discrimination that trans and gender-diverse persons have suffered in the context of the COVID-19 pandemic for not having an identity document that reflects their gender identity.<sup>1177</sup> Likewise, the IACHR expressed concern about discriminatory acts and serious physical and verbal abuse by law enforcement officers against trans women who were detained in the framework of the mobility restriction measures established by the now repealed Supreme Decree 057-2020-PCM, which extended the state of emergency and established specific days for the movement of women and men.<sup>1178</sup>

589. In relation to the **rights of indigenous peoples**, the IACHR received information regarding the differentiated impacts of the COVID-19 pandemic on indigenous peoples, such as the lack of disaggregated data on infections in indigenous peoples and the State's failure to provide culturally appropriate health care in the face of the increase in infections. Representatives of several indigenous peoples of the Amazon region, including the Secoya people in Loreto, reported a severe shortage of medicines, rapid tests, and treatment for COVID-19, which has also put their physical and cultural survival at risk, as they are peoples with a numerically small population and many have lost their elders who preserved their ancestral knowledge.<sup>1179</sup> As a result of this situation throughout the Amazon region, indigenous representatives reported that indigenous peoples declared a health emergency and had to close rivers and access roads to their communities. They also developed their own proposals and initiatives to obtain humanitarian and food aid and promote the use of traditional plants and medicines to control the spread of the pandemic.<sup>1180</sup>

590. Representatives of indigenous peoples and organizations also denounced the continuation of extractive industry activities during the pandemic, when they were decreed to be essential activities. Extractive activities have reportedly contaminated rivers used by indigenous communities, making it difficult for them to access safe water sources for pandemic prevention measures.<sup>1181</sup> The IACHR received information on the situation of indigenous leaders and leaders in the Amazon region who have suffered threats, aggression, and assassinations for defending their territories against the increase in illegal economic activities, as well as extractive and agro-industrial activities.<sup>1182</sup> The Commission also received information on the situation of indigenous peoples in isolation and initial contact (PIACI) affected by extractive, forestry, and mining activities and delays in

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<sup>1176</sup> Wayka, Peru: 20 murders and 170 violations of LGBTI rights in the last year, June 30, 2020; Agencia Presentes, She was a trans survivor from Lima and was murdered in her home: "Gabriela suffered daily violence", September 7, 2020.

<sup>1177</sup> Resistencia Transmasculina Perú, Public complaint for discrimination and abuse of authority, December 26, 2020.

<sup>1178</sup> IACHR, IACHR Calls on States to Guarantee the Rights of LGBTI Persons in Response to the COVID-19 Pandemic, April 20, 2021.

<sup>1179</sup> IACHR, Meeting with Organización Indígena Secoya del Perú and Amazon Frontlines, August 11, 2020.

<sup>1180</sup> Presentation by the Asociación Interétnica de Desarrollo de la Selva Peruana at the "Foro de líderes y lideresas indígenas sobre la situación de derechos humanos de los pueblos indígenas de la Panamazonía y Gran Chaco", organized by the IACHR, the International Work Group for Indigenous Affairs (IWGIA) and the Red Eclesial Panamazónica (REPAM), July 3, 2020.

<sup>1181</sup> IACHR, Meeting with National Organization of Andean and Amazonian Indigenous Women of Peru, Situation of Indigenous Women and Peoples during the COVID-19 pandemic in Peru, July 15, 2020.

<sup>1182</sup> IACHR, Hearing - Human Rights of Indigenous Peoples in the Peruvian Amazon, October 6, 2020, 177th Period of Sessions.

responding to requests for the creation of special reserves for their protection, all of which has been exacerbated by the COVID-19 pandemic.<sup>1183</sup>

591. There have also been reports of the impact of the pandemic on the education of indigenous children and adolescents due to the lack of internet access in rural areas, which makes virtual education impossible and generates high dropout rates. Other reports point to the absence of intercultural care services for cases of violence against women and children in indigenous communities, as well as the lack of disaggregated data on this problem during the pandemic.<sup>1184</sup>

592. Regarding the rights of **children and adolescents**, the IACHR welcomes the enactment of the Emergency Medical Law for the Timely Detection and Comprehensive Care of Child and Adolescent Cancer, which, among other things, guarantees health coverage for early diagnosis and treatment for children and adolescents, regardless of whether or not they have health insurance. In addition, the Law grants leave without loss of wages for parents who have children diagnosed with cancer and provides for payment of a bonus equivalent to two minimum monthly salaries for those who do not have a formal job.<sup>1185</sup>

593. In addition, in the context of the COVID-19 pandemic, the IACHR welcomes the fact that the State will provide a pension of 200 soles per month to children and adolescents who lost their parents during the health emergency, until they reach the age of 18. According to estimates by the Ministry of Economy and Finance, that policy could benefit at least 6,000 children and adolescents.<sup>1186</sup> At the same time, the IACHR is concerned that nearly 300 thousand students dropped out of the educational system in the country during the pandemic, which is equivalent to 15% of the total number of students enrolled, according to data from the Ministry of Education.<sup>1187</sup>

594. With regard to **persons deprived of liberty**, the IACHR reiterated its concern about the high level of overcrowding in the country's prisons, where the occupancy rate is said to be 240.3%.<sup>1188</sup> In the context of COVID-19, the IACHR also welcomed the measures adopted by the Peruvian State to prevent the spread of the virus. In particular, it highlighted: i) Legislative Decrees No. 1459 and No. 1513, issued on April 14 and June 4, which seek the implementation of alternatives to incarceration<sup>1189</sup>; ii) Supreme Decree No. 004-2020-JUS of April 22, which aims to grant pardons for the release of detainees; and iii) Supreme Decree 006-2020-JUS, issued on May 1, 2020, which establishes criteria for granting pardons for adolescents at odds with the law.<sup>1190</sup> The IACHR has

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<sup>1183</sup> IACHR, Hearing - Situation of Indigenous Peoples in Isolation and Initial Contact in Peru, December 9, 2020.

<sup>1184</sup> IACHR, Meeting with National Organization of Andean and Amazonian Indigenous Women of Peru, Situation of Indigenous Women and Peoples during the COVID-19 pandemic in Peru, July 15, 2020.

<sup>1185</sup> Peruvian Government, Childhood Cancer Law will provide timely diagnosis and improve treatment for children affected by this disease, September 2, 2020.

<sup>1186</sup> El Comercio, Orphan's pension - COVID-19: amount, who will be the beneficiaries and for how long, August 18, 2020.

<sup>1187</sup> Yahoo! News, Some 300,000 Peruvian schoolchildren drop out amid pandemic, September 22, 2020.

<sup>1188</sup> IACHR, Press Release 66/20 - In light of the COVID-19 pandemic, the IACHR expresses concern about the special situation of risk faced by persons deprived of liberty in the region. Washington, D.C., September 9, 2020.

<sup>1189</sup> Diario Oficial del Bicentenario El Peruano, Legislative Decree No. 1459. April 13, 2020; Diario Oficial del Bicentenario El Peruano, Legislative Decree No. 1513. June 4, 2020.

<sup>1190</sup> Diario Oficial del Bicentenario El Peruano, Supreme Decree No 004-2020-JUS. April 22, 2020; Diario Oficial del Bicentenario El Peruano, Supreme Decree No 006-2020-JUS. May 1, 2020.

condemned the acts of violence that occurred in various prisons in Peru, in connection with protests demanding adequate medical attention to prevent the spread of COVID-19.<sup>1191</sup> In this regard, according to information available to the Commission, between March and April 2020, there were several riots in the prisons of Río Seco (Piura), Pisci (Lambayeque), El Milagro (La Libertad), Ancón 1 and 2 (Lima), Yanamilla (Ayacucho), Huamancaca (Junín), Castro Castro (Lima) and Chiclayo (Lambayeque). The acts of violence reportedly resulted in the death of 16 inmates. Of those, 10 died as a result of the use of firearms by state agents. The riots also reportedly left more than a hundred people injured. In this regard, the IACHR urged the State of Peru to adopt the necessary measures to guarantee the rights to life, personal integrity, and health of the persons in its custody, as well as to prevent the repetition of these events.<sup>1192</sup>

595. Regarding the **rights of persons in human mobility**, the Commission takes note of the publication of Supreme Decree No. 010-2020-IN, which allows regularization of the migratory situation of persons whose stay in the country is irregular. The regulation would grant a temporary residence permit valid for one year.<sup>1193</sup> Additionally, the Commission observed the implementation of measures, in conjunction with international organizations, to provide humanitarian assistance to Venezuelan families in Peru affected by the COVID-19 pandemic.<sup>1194</sup> The IACHR encourages the State to continue adopting measures to provide humanitarian treatment and international protection responses to persons from Venezuela due to the humanitarian crisis that the country is experiencing.<sup>1195</sup>

596. In relation to **trafficking in persons**, the Commission notes that in June 2020 the Operational Guidelines for investigation of the crime of trafficking in persons were adopted. According to information in the public domain, the guidelines will facilitate better cooperation and coordination with the Public Prosecutors' Office in the prosecution of trafficking in persons.

## DOMINICAN REPUBLIC

- **General Considerations**

597. With respect to **progress**, the IACHR highlights the peaceful holding of the July 5 elections in the context of the pandemic, as well as the increased participation of women in this process. The IACHR takes note of the decrease in homicides, and the commitment of the Supreme Court of Justice to declare the "fight against judicial delay" as part of a "Justice 20-24 Vision". The Commission also welcomes the publication of Presidential Decree No. 262-20 granting Dominican nationality by naturalization to 750 persons.

598. Among the **challenges**, the Commission notes with concern the situation of violence against women, statelessness, and the difficulties that Dominicans of Haitian descent reportedly face with respect to benefiting from state protection in times of COVID-19. Similarly, the IACHR notes the

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<sup>1191</sup>IACHR, Press Release 107/20 - [IACHR condemns acts of violence in Peruvian prisons](#), May 8, 2020.

<sup>1192</sup>IACHR, Press Release 107/20 - [IACHR condemns acts of violence in Peruvian prisons](#), May 8, 2020.

<sup>1193</sup>El Peruano, [Supreme Decree No. 010-2020-IN](#), October 22, 2020.

<sup>1194</sup>UN News, [Peru, UN team up to help Venezuelan refugees and migrants affected by coronavirus](#), April 17, 2020. Tikitakas, [Bono "yo me quedo en casa"](#), and [Venezuelans in Peru](#), March 24, 2020. Gestión Perú, [La comunidad de migrantes venezolanos en Perú recibirá apoyo económico, adelantó el MRE](#), March 31, 2020.

<sup>1195</sup>IACHR, [Resolution 2/18 Forced migration of Venezuelan persons](#), March 2, 2018.



implementation of so-called "conversion therapies" or efforts to "correct" the sexual orientation and gender identity of LGBTI persons, and the differential impact of the pandemic on transgender women sex workers..

599. The State did not respond to the request for information sent for the preparation of this chapter of the annual report.

- **Specific Topics**

600. In relation to **COVID-19**, the IACHR notes that the first case was confirmed on March 1 and on March 17 measures were announced that included the closing of borders, the suspension of on-site classes, and a curfew as a measure to restrict mobility within the national territory.<sup>1196</sup> In particular, as authorized by the National Congress, the Executive Branch declared a state of emergency in the national territory through Resolution No. 62-20, which remained in force as of March 31, 2021.<sup>1197</sup> Likewise, the Dominican State informed the Commission about various programs created to address the challenges posed by the pandemic. In particular, the IACHR highlights the Repatriation of Nationals Abroad and "Stay at Home" programs; the protocols for children in state homes, living on the street, and victims of abuse; and actions undertaken in the area of training and health of the elderly.<sup>1198</sup>

601. For its part, the Commission notes that the Ministry of Economy, Planning, and Development of the Dominican Republic indicated that the main challenges for the country in the context of COVID-19 consist of economic reactivation, poverty, and informal employment, short-term digital transformation, environmental sustainability, and institutional shortcomings.<sup>1199</sup> Similarly, the IACHR takes note of a report by the International Labour Organization (ILO) indicating that one post-pandemic challenge for the country will be the creation of public policies including and embracing vulnerable populations.<sup>1200</sup> The Ministry of Public Health approved the vaccine to be used to begin vaccination in 2021.<sup>1201</sup>

602. With respect to **human rights institutions**, the IACHR notes that the State has had an Ombudsperson's Office since 2003, and that it is a member of the Ibero-American Federation of Ombudspersons.<sup>1202</sup> This entity is empowered to monitor and supervise the activity of the public administration and of private providers of public services, and ensure that they function properly.. The IACHR notes with concern that although the Ombudsperson completed her 6-year term in June

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<sup>1196</sup>Infobae. "Dominican Republic declares nighttime curfew in face of new coronavirus." March 20, 2020.

<sup>1197</sup> Ministry of the Presidency, Dominican Republic, President Danilo Medina declares state of emergency throughout the national territory, March 19, 2020.

<sup>1198</sup> Permanent Mission of the Dominican Republic to the Organization of American States, Informe del Poder Ejecutivo sobre el Estado de Emergencia para Enfrentar el COVID-19 Primero, Segundo, Tercero, Cuarto, Quinto, June 1, 2020.

<sup>1199</sup> Ministry of Economy, Planning and Development of the Dominican Republic, The Five Challenges of the Dominican Republic, November 26, 2020.

<sup>1200</sup> For example, 35% of total employment, equivalent to 1,800,000 jobs in the hotel, restaurant, and retail industries are at high risk of being eliminated. In these industries, female participation is 58.1% and 39.7% respectively. ILO, COVID - 19 and the World of Work: Starting Point, Response and Challenges in the Dominican Republic, September 16, 2020.

<sup>1201</sup> Presidency of the Dominican Republic. "Ministry of Public Health approves first vaccine against COVID-19 in the DR". December 31, 2020.

<sup>1202</sup> Ibero-American Ombudsman Federation. "National Ombudsman Members and Regions."

2019,<sup>1203</sup> she continues on an interim basis. This is due to the fact that to date, despite Law 19-01, no new authorities have been appointed.<sup>1204</sup>

603. The IACHR also takes note of the creation of the Cabinet for Children and Adolescents, an institutional coordination mechanism coordinated by the President of the National Council for Children and Adolescents (CONANI), and of the publication of the report on the implementation of the National Human Rights Plan 2018-2020.<sup>1205</sup> Similarly, the IACHR takes note of the signing of the agreement for the strengthening of transparency, institutionality, and government by the Administrative Ministry of the Presidency and the United Nations Development Program. This, with the objective of improving accountability, compliance with laws, and social impact, among other outcomes.<sup>1206</sup>

604. With respect to **democratic institutions**, the Commission highlights the holding of the presidential and congressional elections on July 5, 2020.<sup>1207</sup> Likewise, the IACHR welcomes the increase in female participation in this process. In this regard, according to data from the Electoral Report with a Gender Perspective, the participation of women candidates for public office increased by 41.33% with respect to the 2016 general elections. In particular, 50% of the candidacies for the Vice-Presidency of the country were submitted by women.<sup>1208</sup>

605. With regard to **citizen security**, the Commission notes that, according to figures from the Citizen Security Observatory of the Dominican Republic (OSCRD), during the first half of 2020 the number of homicides reported was 448, which represents a 9% decrease compared to the same period in 2019.<sup>1209</sup> Likewise, the IACHR notes the functioning of the Citizen Security and Gender Roundtables, aimed at coordinating actions for the prevention of violence and crime.<sup>1210</sup> Despite the above, the IACHR was also informed that, during the COVID-19 pandemic, there was an increase in violence against historically discriminated populations.<sup>1211</sup>

606. In the area of access to justice, the Commission welcomes the commitment by the Presidency of the Supreme Court of Justice (SCJ) to combat judicial delays as part of the Justice 20/24 Vision, which seeks to provide effective access to justice, especially for people in vulnerable

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<sup>1203</sup> Ombudsperson Dominican Republic. "Ombudsperson celebrated 6 years of management". May 16, 2019

<sup>1204</sup> Ombudsperson Dominican Republic. "Ley 19-01 y sus modificaciones.", and Defensor del Pueblo República Dominicana "Defensora del Pueblo reitera no estar interesada en presidir por un segundo período el cargo" September 17, 2020.

<sup>1205</sup> Government of the Dominican Republic. Ministry of Foreign Affairs. "Mirex presenta informe implementación Plan Nacional de Derechos Humanos 2019." July 2, 2020.

<sup>1206</sup> Presidency of the Dominican Republic. "Administrative Ministry of the Presidency signs agreement with UNDP to strengthen transparency and institutionality." December 16, 2020.

<sup>1207</sup> MSN, Elections in the Dominican Republic, 25 June 2020. Junta Central Electoral, Pleno de la JCE realiza declaración de ganadores de las candidaturas Presidencial y Vicepresidencial de las Elecciones del 5 de julio para el período constitucional 2020-2024, 14 July 2020.

<sup>1208</sup> Central Electoral Board, Electoral Observation with Gender Perspective presents report on Elections of July 5, August 17, 2020.

<sup>1209</sup> Observatorio de Seguridad Ciudadana de la República Dominicana, Homicidios República Dominicana, 2020. Ministry of Interior and Police, Boletín Estadístico enero-junio 2020, September 2020.

<sup>1210</sup> National Police Dominican Republic, Our National Police committed to the Citizen Security Roundtables and confinement Genero, September 3, 2020.

<sup>1211</sup> IACHR, Social Forum SACROI COVID-19, June 10, 2020.

situations.<sup>1212</sup> In this context, it notes that the SCJ has established a schedule for attending to pending cases, and is projecting a 70% reduction in the backlog of First Chamber cases by the first quarter of 2021 and a 100% reduction for all other jurisdictions.<sup>1213</sup> On the other hand,, the IACHR notes that since the COVID-19 State of Emergency was decreed , the State has taken steps to hold hearings in person.<sup>1214</sup>

607. Regarding the rights of **persons in a situation of mobility**, civil society organizations pointed out that Dominicans of Haitian descent would face difficulties in benefiting from the measures adopted by the State to attend to the most vulnerable populations in the context of the COVID-19 pandemic. This is due to their lack of identity documents and the fact that, for the most part, people of Haitian descent in the Dominican Republic are informal or domestic workers.<sup>1215</sup> They added that out of every 10 people in group A,<sup>1216</sup> only one was reportedly included in the #QuedateEnCasa program. Regarding group B,<sup>1217</sup> they pointed out that not having an identity card prevents them from being beneficiaries of state assistance programs.<sup>1218</sup>

608. On the other hand, the IACHR welcomed the publication of Decree 262-20 through 750 persons were granted Dominican nationality by naturalization under the special regime created by Law No. 169-14.<sup>1219</sup> However, civil society organizations pointed out that around 9,482 persons were not included in the naturalization procedures.<sup>1220</sup>

609. With respect to **human trafficking**, the IACHR takes note of the statement by the General Directorate of the National Police that, through its Department of Investigation of Human Trafficking and Human Smuggling, it is bent on eradicating this crime.<sup>1221</sup> At the same time, the Commission takes note of the State's efforts to dismantle human trafficking gangs, such as the operation carried out in August by the Directorate of Migration against the network operating at the International Airport of the Americas, aided and abetted by some migration inspectors.<sup>1222</sup>

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<sup>1212</sup> Judicial Branch of the Dominican Republic, President of the Supreme Court of Justice declares fight against judicial delinquency, January 7, 2020. Judicial Branch, Judicial Branch Strategic Plan, February 2020.

<sup>1213</sup> Judicial Branch of the Dominican Republic, Supreme Court of Justice expedites resolution of cases and adopts measures for the definitive eradication of judicial delay, November 30, 2020.

<sup>1214</sup> Judicial Branch of the Dominican Republic, Courts heard more than 12 thousand hearings in August, September 1, 2020.

<sup>1215</sup> Wooding, Bridget, Ana María Belique, Coronavirus and Pre-existing Inequalities: Mobilities in the Dominican Republic, September, 2020, p. 5.

<sup>1216</sup> IACHR, Annual Report. Chapter V "Dominican Republic," 2017, par. 24.

<sup>1217</sup> IACHR, Annual Report. Chapter V "Dominican Republic," 2017, par. 24.

<sup>1218</sup> Wooding, Bridget, Ana María Belique, Coronavirus and pre-existing inequalities: Mobilities in the Dominican Republic, September, 2020, p. 6.

<sup>1219</sup> IACHR [@CIDH]. (Aug. 10, 2020). IACHR welcomes the publication of Presidential Decree No.262-20 of #16July, [Tweet]. Twitter. <https://twitter.com/CIDH/status/1292925175462334474>. UNHCR, UNHCR hails Dominican Republic's progress on citizenship, September 23, 2020.

<sup>1220</sup> Jaques Viau, Manifiesto of Dominicans of Haitian Descent, September 23, 2020, p. 4.

<sup>1221</sup> National Police of the Dominican Republic, On World Day Against Trafficking in Persons we reaffirm our tireless work in the eradication of this scourge, July 30, 2020.

<sup>1222</sup> Diario Libre, Desmantelan red de trata de personas, 31 August 2020.

610. Regarding the rights of **lesbian, gay, bisexual, trans, gender diverse, and intersex (LGBTI) persons**, the Commission has received information on the differentiated impacts on their human rights suffered by trans women sex workers during the pandemic, mainly due to their lack of income given the impossibility of working during confinement and social distancing measures.<sup>1223</sup> In addition, there have been acts of discrimination, such as arrests of sex workers and their clients, as well as acts of violence, such as the murder of a sex worker after she was hit by a vehicle.<sup>1224</sup>

611. Similarly, the Commission regrets the vehemence of objections to the publication of photographs of diversity and of trans and gender-diverse groups' flags on the desk of a Vice Minister's office. These statements were made by both national deputies and conservative religious groups; in response, the IACHR recalls that States have the duty to recognize the right to equality and non-discrimination of LGBTI persons and not to reproduce the historical and structural discrimination to which they have been subjected.<sup>1225</sup> The Commission has also received troubling information about so-called "conversion therapies" or efforts to correct the sexual orientation and gender identity of LGBTI persons or persons perceived as such, in the Caribbean States, including the Dominican Republic. These practices, which are generally carried out clandestinely, seriously violate human rights and cause mental, physical, or sexual harm.<sup>1226</sup>

#### SAINT KITTS AND NEVIS

- **General considerations**

612. Regarding **progress**, the IACHR highlights the measures adopted to contain the spread of COVID-19, the peaceful conduct of general elections; reduction in crime rates, the public commitment of prison officers to the rehabilitation of persons deprived of their liberty, and the enactment of legislation that allows for the expungement of criminal records for persons convicted for the possession of small amounts of cannabis.

613. With respect to **challenges**, the IACHR observes with concern the existence of legislation criminalizing consensual sex between LGBTI people, as well as the absence of legislation against discrimination based on sexual orientation, gender identity or expression, and sexual characteristics. Similarly, the Commission reiterates its concern over the existence of the death penalty in the country's legislation.

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<sup>1223</sup> IACHR, SACROI COVID-19 Social Forum, June 10, 2020; IACHR, IACHR Presents Report on the State and Results of Efforts to Implement its Strategic Plan 2017–2021 During the First Half of 2020, July 7, 2020; Yahoo News, Pandemic suffocates trans sex workers in Dominican Republic, Sept. 5, 2020.

<sup>1224</sup> TRANSSA, Trans sex worker dies after being hit by vehicle at Km9 of Autopista Duarte, 22 September 2020; Online News Network, Transvestite sex worker is arrested along with her client, 1 October 2020.

<sup>1225</sup> IACHR, Advances and Challenges Toward the Recognition of the Rights of LGBTI Persons in the Americas, December 7, 2018, paras. 245, 246, 260 and recommendation 14; Listín Diario, Diputado se queja de bandera LGBT en despacho del Palacio Nacional, 16 September 2020; Evangelico Digital, Evangélicos dominicanos rechazan agenda LGBT frente a Palacio Nacional, 23 September 2020; El Nuevo Diario, Piden a viceministra "no exponer sus preferencias o reconocimiento" del colectivo LGBT en oficina pública, 7 October 2020; Periódico El Caribe, Dice seguirá exhibiendo bandera LGBT en su despacho, 13 October 2020; Viceministra sobre Agenda LGBTIQ+: "To talk about democracy is to talk about plurality," Oct. 16, 2020.

<sup>1226</sup> IACHR, Hearing on the Situation of the Human Rights of LGBTI Persons in the Caribbean, Session No. 178, December 8, 2020; OHCHR, "Conversion therapies" can amount to forms of torture and should be banned, says UN expert, July 13, 2020.

614. The State did not respond to the request for information sent to prepare this chapter.

- **Specific issues**

615. Faced with the **COVID-19** pandemic, the IACHR highlights the measures adopted to contain the spread of the virus. In Saint Kitts and Nevis, the first case was registered on March 25<sup>1227</sup> and since then, preventive actions have been taken to contain the virus, such as the declaration of a state of emergency, limitations on movement through the imposition of curfews, the closure of borders and the closure of educational establishments. In particular, the Commission notes that a state of emergency was declared under the provisions of section 19(1) of the Saint Christopher and Nevis 1983 Constitution Order<sup>1228</sup>.

616. With regard to **democratic institutional**ity, the Commission observes that general elections were held peacefully on June 5.<sup>1229</sup> The Prime Minister was re-elected for a second consecutive term as head of government.<sup>1230</sup> Further, the IACHR notes with concern that according to public information, after issuing an invitation to the Organization of American States to observe the elections, the Prime Minister rescinded the offer citing COVID-19 quarantine protocols.<sup>1231</sup>

617. Regarding **citizen security**, the IACHR notes that according to the Prime Minister in his address to the National Assembly in October 2020, the number of crimes was 27% lower for the period January 1 to October 13, 2020 compared to the same period in 2019.<sup>1232</sup>

618. With regard to **children and adolescents**, the IACHR notes that the Department of Gender Affairs is advocating that the perpetrators of sex offences against children and adolescents be prosecuted by the State instead of leaving the parents or guardians to decide to press or not press charges.<sup>1233</sup> The Commission also observes that on October 26, Saint Kitts and Nevis acceded to the Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption, which was due to enter into force on February 1, 2021.<sup>1234</sup> In addition, a report from Amnesty International reminds the State to act on its commitments made during the 2011 Universal Periodic Review to ratify the Optional Protocols to the Convention on the Rights of the Child, on the

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<sup>1227</sup> La Vanguardia, "[Islas Virgenes británicas y San Cristóbal confirman primeros casos por Covid.](#)" March 25, 2020.

<sup>1228</sup> The Law Commission, Ministry of Justice and Legal Affairs, Saint Kitts & Nevis, Statutory Rules and Orders No. 6 of 2020 (State of Emergency), March 27, 2020.

<sup>1229</sup> Today Caricom, [St.Kitts-Nevis Results Reflect Will of the People: CARICOM Observers](#), 10 June 2020. The CARICOM Mission notes that "No major concerns were observed".

<sup>1230</sup> Peoples Dispatch, [Timothy Harris takes oath as Prime Minister of Saint Kitts and Nevis for second term](#), June 10, 2020.

<sup>1231</sup> Dominica Vibes, [Invitation to OAS Observer Mission Revoked Ahead of St Kitts Elections](#), 8 June 2020.

<sup>1232</sup> PR Newswire, St Kitts And Nevis' Continuous Progress in Law and Order Continues to Attract Foreign Investors, 20 October 2020.

<sup>1233</sup> Observer, [Department of Gender Affairs Advocates for Child Sex Offenders to be Prosecuted by the State](#), March 9, 2020.

<sup>1234</sup> Hague Conference on Private International Law, [Saint Kitts and Nevis accedes to the Adoption Convention](#), November 4, 2020.

Involvement of Children in Armed Conflict and on the sale of children, child prostitution and child pornography, as soon as possible.<sup>1235</sup>

619. Regarding the **rights of lesbian, gay, bisexual, trans, gender diverse, and intersex (LGBTI) persons**, the Commission notes with concern that no progress has been made toward decriminalizing consensual sexual relations between persons of the same sex, as well as the absence of legislation against discrimination based on sexual orientation, gender identity or expression, and sexual characteristics.

620. With regard to **persons deprived of liberty**, the Commission highlights the commitment of the staff at Her Majesty's Prison to the rehabilitation of this population by ensuring that they are able to lead productive lives when they are released.<sup>1236</sup> Likewise, the Commission welcomes the enactment of the Criminal Record (Rehabilitation of Offenders) (Amendment) Bill of 2020.<sup>1237</sup> This amendment allows the elimination of the records of persons who were convicted: i) under section 6B of the Drugs (Prevention & Abatement of the Misuse and Abuse of Drugs) Act, Cap. 9:08; or ii) of an offence or offences involving 56 grams of cannabis or 15 grams of cannabis resin or less.<sup>1238</sup>

621. With respect to the **death penalty**, the Commission finds it worrisome that there has been no progress with abolishing this punishment, even though no executions have been carried out since 2008.<sup>1239</sup> The Commission notes, moreover, that as of October 2020, no one had been sentenced to the death penalty, and no one was on death row.<sup>1240</sup> In the same vein, human rights attorneys in Saint Kitts and Nevis<sup>1241</sup>, as well as Amnesty International<sup>1242</sup>, have called for the abolition of the death penalty. The IACHR recalls that the death penalty is a violation of the right to life, and that States must adopt measures to abolish it.

#### SAINT VINCENT AND THE GRENADINES

- **General considerations**

622. Regarding **progress**, the IACHR highlights the measures adopted to contain the spread of COVID-19, the peaceful conduct of the general elections on November 5th, during the pandemic; and the ratification of the Escazu Agreement. Likewise, the Commission highlights the fact that the State endorsed the use of child-centered and gender-aware strategies in peace processes and post-conflict settings according to United Nations standards.

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<sup>1235</sup> Amnesty International, Suggested recommendations to States under review in the 37th session of the UPR Working Group, 18 - 29 January 2021 Recommendations to the Government of Saint Kitts and Nevis, December 2020, p. 47.

<sup>1236</sup> The Observer, HMP staff committed to rehabilitate inmates to have productive lives, November 11, 2020.

<sup>1237</sup> SKN Pulse, SKN to expunge Small Marijuana Convictions from 808 Criminal Records, 15 February 2020.

<sup>1238</sup> Governor-General, Criminal Records (Rehabilitation of Offenders) (Amendment) Act, 2020, 14th February, 2020.

<sup>1239</sup> Death Penalty Database, St. Kitts and Nevis, 2020.

<sup>1240</sup> Meeting with the Death Penalty Project on 27 October 2020.

<sup>1241</sup> Winn Media St. Kitts and Nevis, Prominent SKN Attorneys Call For End To The "Death Penalty", October 24, 2020.

<sup>1242</sup> Amnesty International, Suggested recommendations to States under review in the 37th session of the UPR Working Group, 18 - 29 January 2021 Recommendations to the Government of Saint Kitts and Nevis, December 2020, p. 47

623. With respect to **challenges**, the Commission observes the absence of a national human rights institution in the country, and reiterates its concern with the criminalization of same sex relations as well as the general discrimination and stigmatization of LGBTI people. The Commission also reiterates its preoccupation that there has been no progress with abolishing the death penalty in the country's legislation.

624. The State did not respond to the request for information sent to prepare this chapter.

- **Specific issues**

625. In relation to the **COVID-19** health crisis, the first case was registered on March 11 and preventive actions were taken, even before this date, through the recommendation to observe social distancing, the declaration of a health emergency and state of national emergency, the closure of educational establishments, and a border restrictions policy.<sup>1243</sup> The Commission also observes the efforts of the Royal Saint Vincent and the Grenadines Police Force to sensitize communities to follow and adhere to measures and protocols to reduce the spread of COVID-19 among citizens and visitors.<sup>1244</sup>

626. After several months of implementing these measures, steps were taken for the gradual reactivation of the economic and social life of the country. In particular, an effort was made to revive tourism within the framework of the OAS Working Group of the Inter-American Tourism Committee.<sup>1245</sup> Regarding institutional monitoring,<sup>1246</sup> the IACHR takes note of the creation of a National Emergency Committee that has a Task Force against Coronavirus, and in particular, the measures adopted by the Subcommittee on Health Services for the prevention and containment of the pandemic. Through the measures adopted, the country has managed to reduce the risk of the disease.<sup>1247</sup>

627. Regarding **human rights institutions**, the Commission notes with concern the absence of a national human rights institution in the country. In this regard, the IACHR has highlighted the importance of having an independent body for the promotion and protection of human rights at the national level. On the other hand, the IACHR welcomes the ratification of the Regional Agreement on Access to Information and Access to Justice in Environmental Matters in Latin America and the Caribbean, also known as the Escazú Agreement.<sup>1248</sup>

628. With respect to **democratic institutional**ity, the Commission takes note of the General Elections held on November 5, 2020. The current Prime Minister was re-elected for a fifth consecutive term. The Labour Party won nine of the 15 seats contested in the Elections and the other

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<sup>1243</sup> IACHR. "SACROI-COVID19 Rapid and Integrated Response Coordination Unit"

<sup>1244</sup> The Royal St. Vincent and the Grenadines Police Force, The Royal St. Vincent and the Grenadines Police Force Advises General Public on the Enforcement of Covid 19 Protocols, January 2020.

<sup>1245</sup> E Turbo News. "Inter-American Committee on Tourism takes on COVID-19." August 14, 2020.

<sup>1246</sup> Government of Saint Vincent and the Grenadines. "Covid-19 Protocols."

<sup>1247</sup> Travel State Gov. US Department of State. "Saint Vincent and The Grenadines Travel Advisory."

<sup>1248</sup> Amnistía Internacional. "Américas: La región no debe dejar pasar la oportunidad para liderar la protección del medio ambiente." September 26, 2020.



opposition New Democratic Party won the other six.<sup>1249</sup> In addition, the IACHR observes that special arrangements were made to ensure that frontline workers fighting COVID-19 could vote early<sup>1250</sup> and that 242 nationals who arrived in the country to cast their votes and who had been in quarantine between 6 to 14 days, were eligible to vote.<sup>1251</sup>

629. Regarding **children and adolescents**, the IACHR notes that, as a signatory to the United Nations Convention on the Rights of the Child, and the Optional Protocol on Children in Armed Conflict, the State endorsed the use of child-centered and gender-aware strategies in peace processes and post-conflict settings detailed in the United Nations Practical guidance for mediators to protect children in situations of armed conflict.<sup>1252</sup>

630. On the rights of **lesbian, gay, bisexual, trans, gender diverse, and intersex (LGBTI) persons**, the Commission notes with concern that criminalization against LGBTI persons persists, as well as acts of discrimination, violence, and stigmatization that affect different aspects of these people's lives. In particular, the IACHR notes that there is no progress to decriminalize the crimes of "sodomy" and "impudent practices between persons of the same sex" established in the Penal Code, which are punished with penalties of up to ten years imprisonment, even if they are carried out privately.

631. In relation to the **death penalty**, the Commission expresses concern that there has been no progress with abolishing this punishment, even though no executions have been carried out since 1995.<sup>1253</sup> The IACHR notes, moreover, that as of October 2020, no one had been sentenced to death, and there was one person on death row.<sup>1254</sup> The IACHR recalls that the death penalty is a violation of the right to life, and that States must adopt measures to abolish it.

## SAINT LUCIA

- **General considerations**

632. Regarding **progress**, the IACHR highlights measures adopted by the State to contain the spread of COVID-19, including the State's implementation of a victimization survey to better understand the nature of crime; the establishment of the Coordinating Committee on human rights; and efforts to reduce gender-based violence. The Commission also commends the consultation on the Status of Children Bill to address the legal status of children born within and outside of wedlock, and the abolition of corporal punishment of children and adolescents.

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<sup>1249</sup> CARICOM, [CARICOM Election Observation Mission declares the St. Vincent and the Grenadines Elections free and fair](#), November 7, 2020. CARICOM, [CARICOM SG Congratulates Re-Elected Vincentian Prime Minister](#), November 13, 2020.

<sup>1250</sup> Ministry of National Security, Air and Sea Port Development, The Government of Saint Vincent and the Grenadines, [Special Arrangements In Place To Ensure That Frontline Workers Can Vote Early](#), October 16, 2020.

<sup>1251</sup> Saint Vincent and the Grenadines Government, [Exemption to Leave Quarantine to Vote](#), November 20, 2020.

<sup>1252</sup> Permanent Mission of Saint Vincent and the Grenadines to the United Nations, [Statement on "Children and armed conflict: Integrating child protection into peace processes"](#), 12 February 2020. Office of the Special Representative of the Secretary-General for Children and Armed Conflicts, [Practical guidance for mediators to protect children in situations of armed conflict](#), February 2020.

<sup>1253</sup> Death Penalty Data base, [Saint Vincent and the Grenadines](#), 2020.

<sup>1254</sup> Meeting with the Death Penalty Project on October 27, 2020.

633. Regarding **challenges**, the Commission notes the inadequate number of high court judges, the scarcity of forensic data and other resources necessary for litigation, and the limited role of the Ombudsperson in settling matters relevant to administrative injustice. The IACHR also observes with deep concern the persistent levels of violence and discrimination experienced by LGBTI people, and underscores the stigmatizing effect of the Penal Code, which classifies crimes of "sodomy" and "serious indecency" against this population; the high recidivism rate among persons deprived of their liberty; and the absence of progress with abolishing the death penalty in the country's legislation.

634. The State replied to the request for information for preparation of this chapter.<sup>1255</sup>

- **Specific issues**

635. Faced with the **COVID-19** pandemic, the IACHR highlights the measures adopted to contain the spread of the virus. In Saint Lucia, the first case was registered on March 13. Since then, preventive actions have been taken, such as the declaration of emergency -- declared by the Governor General on March 23<sup>1256</sup> --the closure of educational establishments, the closure of borders and mandatory preventive isolation, as well as limitations on circulation through the imposition of curfews.<sup>1257</sup> After several months of these measures, actions were carried out for the gradual reactivation of the economy, in particular for the revival of tourism and social activity in the country.<sup>1258</sup> In addition, the Commission observes the efforts made by the State with the EnGenDER project (Enabling, Gender-Responsive Disaster Recovery) in response to COVID-19, which seeks, among other things, to reduce gender violence and provide psychological support to victims.<sup>1259</sup> The Commission also notes that the World Food Program signed a Memorandum of Understanding with the Government to increase public assistance to 1,000 vulnerable households in response to the pandemic.<sup>1260</sup>

636. Regarding **democratic institutional**ity, the IACHR takes note that St. Lucia's overall rule of law score increased by less than 1% in the 2020 Index. The country improved two positions in global rank, and placed 8th out of 30 countries in the Latin America and Caribbean region.<sup>1261</sup>

637. With regard to **human rights institutions**, the IACHR welcomes Saint Lucia's request for technical capacity-building assistance for its civil servants. In that context, , the first training session on the Inter-American Human Rights System and its mechanisms was held on September 15. The IACHR reiterates its willingness to continue providing technical cooperation in this area.

638. In relation to **citizen security**, the IACHR observes that the Saint Lucia National Crime Victimization Survey 2020 examines safety as perceived by persons aged 18 years and over, measures victimization, and estimates unreported crime, especially in respect of vulnerable groups, and helps

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<sup>1255</sup> Response by Saint. Lucia in relation to Chapter IV. A, OAS-44/2020, December 23, 2020.

<sup>1256</sup> Jamaica-Gleaner, Saint Lucia Declares State of Emergency As COVID-19 Cases Increase to Three, March 23, 2020.

<sup>1257</sup> [http://www.oas.org/es/cidh/SACROI\\_COVID19/cronoV2.a.sp](http://www.oas.org/es/cidh/SACROI_COVID19/cronoV2.a.sp)

<sup>1258</sup> <https://www.stlucia.org/en/covid-19/>

<sup>1259</sup> Response by Saint Lucia in relation to Chapter IV.A, OAS-44/2020, December 23, 2020.

<sup>1260</sup> Response by Saint Lucia in relation to Chapter IV.A, OAS-44/2020, December 23, 2020.

<sup>1261</sup> World Justice Project, [WJP Rule of Law Index 2020 performance](#), 2020, p.1.

to determine citizens' level of fear of crime and trust of police officers.<sup>1262</sup> In this sense, the survey could lead to a better understanding of crime.<sup>1263</sup> The IACHR further notes that, according to UNODC, Saint Lucia is the first Caribbean country to measure victimization in keeping with United Nations standards and those of the Latin American and the Caribbean Crime Victimization Survey Initiative, and with a gender perspective.<sup>1264</sup> In this regard, the Commission recalls that, in compliance with their international obligations to protect and guarantee human rights in relation to citizen security, States must design and implement comprehensive public policies that simultaneously develop specific actions and strategic plans at the operational, regulatory, and preventive levels.<sup>1265</sup>

639. The Commission takes note that the Acting Commissioner of Police of the Royal Saint Lucia Police Force (RSLPF) encouraged all police officers to undertake their duties in a lawful manner, with respect, while upholding human rights and abiding by the use of force policy.<sup>1266</sup> The IACHR further notes that to ensure compliance with the COVID-19 health and safety protocols, the police will be employing special guards, and have called on the public to report anyone who enters the country illegally.<sup>1267</sup>

640. As regards **access to justice**, the Commission was informed by the State that there is an inadequate number of High Court judges, gaps in relation to forensic data needed for prosecuting cases, and inadequate resources for Crown Prosecution Unit operations.<sup>1268</sup> At the same time, civil society organizations reported that the Ombudsperson's functions are restricted to settling matters relating to administrative injustice.<sup>1269</sup> The IACHR takes note of the establishment of the Coordinating Committee on human rights to improve monitoring and reporting on human rights issues, and to build human rights capacity nationally, including the drafting of a syllabus for public servants.<sup>1270</sup>

641. Regarding **women's rights**, the State reported plans to mainstream gender issues in its National Development Plan and to sensitize public servants on the Convention on the Prevention, Punishment, and Eradication of Violence Against Women (*Belem do Para*).<sup>1271</sup> The IACHR further notes that a national consultation was held to review gaps in national legislation and to draft new legislation to define domestic violence and provide remedies for victims of domestic violence.<sup>1272</sup>

642. On the rights of **lesbian, gay, bisexual, trans, gender diverse, and intersex (LGBTI) persons**, the Commission is concerned about ongoing high levels of violence and discrimination against them. Likewise, the IACHR draws attention to the fact that the Penal Code continues to classify

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<sup>1262</sup> Response by Saint Lucia in relation to Chapter IV.A, OAS-44/2020, December 23, 2020.

<sup>1263</sup> UNODC, [UNODC supports Saint Lucia in generating data on victimization and safety](#), July 3, 2020

<sup>1264</sup> UNODC, [UNODC supports Saint Lucia in generating data on victimization and safety](#), July 3, 2020

<sup>1265</sup> IACHR, [Report on Citizen Security and Human Rights](#), OEA/Ser.L/V/II., Doc. 57, December 31, 2009, par. 232.1.

<sup>1266</sup> Saint Lucia Royal Police, [RSLPF responds to non-approval of Black Lives Matter rally](#), June 11, 2020

<sup>1267</sup> The Government of Saint Lucia, [Police Force clamps down on COVID-19 protocol violations](#), December 7, 2020.

<sup>1268</sup> Response by Saint Lucia in relation to Chapter IV.A, OAS-44/2020, December 23, 2020.

<sup>1269</sup> IACHR [@IACHR]. (November 11, 2020). Commissioner Margarette May Macaulay participated in a Meeting with Caribbean Civil Society Organizations [Tweet]. Twitter. <https://twitter.com/CIDH/status/1326644771805335553?s=20>

<sup>1270</sup> Response by Saint Lucia in relation to Chapter IV.A, OAS-44/2020, December 23, 2020.

<sup>1271</sup> Response by Saint Lucia in relation to Chapter IV.A, OAS-44/2020, December 23, 2020.

<sup>1272</sup> Response by Saint Lucia in relation to Chapter IV.A, OAS-44/2020, December 23, 2020.

the crimes of "sodomy" and "serious indecency," terms that have a stigmatizing effect on this population<sup>1273</sup> and promote a culture of discrimination and violence towards LGBTI people and those who are perceived as such, such as the serious attack on a gay man in Castries.<sup>1274</sup>

643. Likewise, the Commission has received information on so-called "conversion therapies" or efforts to correct the sexual orientation and gender identity of LGBTI persons or those perceived as such, in Saint Lucia. These practices, generally carried out clandestinely, cause serious violations of human rights, as well as mental, physical, or sexual harm.<sup>1275</sup>

644. With regard to **children and adolescents**, the Commission observes that the Order abolishing corporal punishment entered into force on May 1, 2020. However, Article 50 of the Education Act still allows corporal punishment at school in some instances; nevertheless the Government has reiterated its commitment to eliminating this punishment by law.<sup>1276</sup> Likewise, the IACHR observes that a consultation on the Status of Children Bill is set to take place early in 2021, and will address the legal status of children born within and outside of wedlock.<sup>1277</sup> On the other hand, the Commission notes that, according to the Government, COVID-19 has increased inequities within the education system. Additionally, the Government stated that it would make these provisions applicable to all students in the education system.<sup>1278</sup>

645. With regard to the **rights of persons deprived of liberty**, the IACHR notes with concern the high recidivism rate in Saint Lucia. According to data reported by the Bordelais Correctional Facility, of the 97 persons admitted to the facility between July 29 and December 10, 2020, 51 percent were first offenders. That indicates a recidivism rate of 46%.<sup>1279</sup> In this context, the Commission calls on the State to adopt comprehensive prison policies geared to the personal rehabilitation and reintegration of persons deprived of liberty<sup>1280</sup> and to implement post-prison follow-up and support programs for the reintegration of persons who have finished serving their sentence into society and family life.<sup>1281</sup> The Commission recalls that Article 5.6 of the American Convention regards social reintegration as the main purpose of deprivation of liberty.

646. With respect to the **death penalty**, the IACHR finds it worrisome that there has been no progress toward abolishing this punishment, even though no executions have been carried out

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<sup>1273</sup> Penal Code, Section 132 "Gross Indecency" and Subsection 133 (Sodomy).

<sup>1274</sup> HTS News4orce Saint Lucia, [U&S wants Equality Bill to protect rights of LGBTQ](#), August 14, 2020; Eastern Caribbean Alliance, [United and Strong INC calls for the enactment of anti-discrimination legislation to protect the rights of the LGBTQ community](#), August 17, 2020.

<sup>1275</sup> CIDH, [Hearing on the Human Rights Situation of LGBTI Persons in the Caribbean](#), 178th Period of Sessions, December 8, 2020; OHCHR, "Conversion therapies" can amount to forms of torture and should be banned, says UN expert, July 13, 2020..

<sup>1276</sup> Response by Saint Lucia in relation to Chapter IV.A, OAS-44/2020, December 23,2020, p.7.

<sup>1277</sup> Response by Saint Lucia in relation to Chapter IV.A, OAS-44/2020, December 23,2020, p.6.

<sup>1278</sup> Response by Saint Lucia in relation to Chapter IV.A, OAS-44/2020, December 23, 2020.

<sup>1279</sup> Saint Lucia Times, [BCF Reports a 46 Percent Recidivism Rate for Recent Admissions](#), December 28, 2020.

<sup>1280</sup> IACHR, [Report on the Human Rights of Persons Deprived of Liberty in the Americas](#), OEA/Ser.L/V/II., Doc. 64/, December 31, 2011, par. 630.1.

<sup>1281</sup> IACHR, [Report on the Human Rights of Persons Deprived of Liberty in the Americas](#), OEA/Ser.L/V/II., Doc. 64/, December 31, 2011, par. 630.8.

since 1995.<sup>1282</sup> The Commission notes, moreover, that as of October 2020, was sentenced to the death penalty, and no one was on death row.<sup>1283</sup> The IACHR recalls that the death penalty is a violation of the right to life and that States must adopt measures to abolish it.

647. In relation to the rights of **persons with disabilities**, the Commission welcomes the ratification by the State of the United Nations Convention on the Rights of Persons with Disabilities on September 11, 2020.<sup>1284</sup> Likewise, the State reported that a committee had been established to oversee implementation of the Convention, and that public policies had been developed to guarantee the right to read for people with visual disabilities.<sup>1285</sup>

648. Regarding **human trafficking**, the Commission observes that the Department of Internal Affairs and National Security and the Working Group for the Prevention of Trafficking in Persons work together to raise awareness among the population that labor exploitation is a manifestation of human trafficking.<sup>1286</sup> The IACHR also notes that the Department indicated that one of the effects of the COVID-19 pandemic could be to increase the number of human trafficking cases.<sup>1287</sup>

## SURINAME

- **General considerations**

649. Regarding **progress**, the Commission highlights the measures adopted by the State to control the spread of COVID-19. The IACHR also commends the high level of participation by the population in the General Elections, and observes the State's collaboration with UNICEF in providing access to several programs for the protection of the rights of children and adolescents.

650. Regarding **challenges**, the IACHR observes the lack of a functioning human rights institution and complaints of acts of corruption by public officials. The Commission further notes the difficulties the State has with fulfilling its obligation to investigate, prosecute, and punish those responsible for grave crimes and human rights violations. The Commission underscores the need to establish a data management system for monitoring crime statistics. The IACHR also expresses deep concern regarding the so-called "conversion therapies" to correct the sexual orientation and gender identity of LGBTI people.

651. The State replied to the request for information for preparation of this chapter.<sup>1288</sup>

- **Specific issues**

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<sup>1282</sup> Death Penalty Database, [Saint. Lucia](#), 2020.

<sup>1283</sup> Meeting with the Death Penalty Project on October 27, 2020.

<sup>1284</sup> United Nations [United Nations Treaty Body Database](#).

<sup>1285</sup> Inputs by the State of Saint Lucia for Chapter IV of the 2020 Annual Report of the IACHR, pp. 3-4.

<sup>1286</sup> Department of Home Affairs of Saint Lucia, [Department of Home Affairs Raises Awareness](#), March 3, 2020.

<sup>1287</sup> Department of Home Affairs of Saint Lucia, [COVID-19 has led to an increase in human trafficking](#), November 6, 2020.

<sup>1288</sup> Response by Suriname in relation to Chapter IV, PVOAS/SUR/560/20, September 3, 2020.

652. In the context of the **COVID-19** health crisis, the Commission highlights the measures taken to deal with the spread of the virus. On March 13, the first case of COVID-19 was confirmed in Suriname. On March 14, voluntary preventive isolation was ordered, and on March 16 educational centers were closed. On March 21, targeted isolation measures were established, and later, on March 24, a national curfew was declared as a preventive measure. After several months of such measures, actions were taken to reactivate economic and social life. However, in December it was decided to close the borders (both for exit and entry) and entry to the country will be exclusively for essential repatriations, with the presentation of a negative PCR test and a mandatory quarantine.<sup>1289</sup>

653. For its part, the State indicated that the pandemic had posed many challenges with regard to ensuring respect for human rights, since it had been forced to impose a lockdown (maritime and air), close schools, and limit working hours, while experiencing an overburdened health care system and an economic crisis.<sup>1290</sup> The State also reported that inability to re-open the economy had lowered production, resulting in increased poverty.<sup>1291</sup> Likewise, the IACHR was informed that, while the new administration is committed to working and providing assistance to citizens during the pandemic, the fiscal deficit and large debt burden that it inherited remains a challenge.<sup>1292</sup> At the time of the elections, Suriname had one of the lowest COVID-19 infection rates in the Caribbean. By mid-July, that number had increased substantially.<sup>1293</sup>

654. As regards **human rights institutions**, although the country established the National Human Rights Institute as early as 2016 to promote and protect human rights in Suriname, the State informed the Commission that it was not yet up and running.<sup>1294</sup> In addition, the State indicated that consideration was being given to establishing an Ombudsperson's Office.<sup>1295</sup>

655. Regarding **democratic institutional**ity, the IACHR takes note of the General Elections held on May 25, 2020 to elect parliamentary representatives. According to the OAS Observation Mission, over 70% of the electorate participated in the elections.<sup>1296</sup> The OAS Mission observed that while Observers were respectful of the voting procedure required by the electoral law, this procedure should be balanced with the need for timely results, and to this end efforts should be made to modernize and simplify the vote counting process.<sup>1297</sup> Likewise, the State informed the Commission that Suriname was the first CARICOM country to hold elections during the pandemic, and emphasized that both CARICOM and the OAS had been present to observe the electoral process. The President was elected by acclamation by parliamentary representatives on July 13, 2020.<sup>1298</sup>

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<sup>1289</sup> US Embassy in Suriname. "[COVID-19 Information](#)."

<sup>1290</sup> Information provided to the IACHR by the State during a bilateral meeting, October 13, 2020.

<sup>1291</sup> Information provided to the IACHR by the State during a bilateral meeting, October 13, 2020.

<sup>1292</sup> Information provided to the IACHR by the State during a bilateral meeting, October 13, 2020.

<sup>1293</sup> There were 5,359 cases, 117 deaths, and 5,227 recovered cases on December 15, 2020

<sup>1294</sup> Response by Suriname in relation to Chapter IV, PVOAS/SUR/560/20, September 3, 2020.

<sup>1295</sup> IACHR, 177 PS: Meeting with CARICOM Representatives, September 29, 2020.

<sup>1296</sup> OAS, [Statement of the OAS Electoral Observation Mission in Suriname](#), June 2, 2020.

<sup>1297</sup> OAS, [Statement of the OAS Electoral Observation Mission in Suriname](#), June 2, 2020.

<sup>1298</sup> CARICOM Today, [Suriname elects new President](#), July 13, 2020.

656. On July 16th 2020, Mr. Chandrikapersad “Chan” Santokhi was inaugurated as the new President of Suriname.<sup>1299</sup> Mr. Chan Santokhi, a former police commissioner and justice minister of the Progressive Reform Party, won a majority of votes in the General Elections,<sup>1300</sup> bringing an end to Desi Bouterse’s decade-long rule (2010 – 2020), and to his presidential immunity for human rights violations committed under his military rule, including the 1982 executions of 15 civilians.<sup>1301</sup> The Commission is aware of the Amnesty Law that was granted in 2012 to prevent Bouterse and his co-defendants from facing justice, and in this context urges the State to adopt the necessary measures to investigate, prosecute, and punish those responsible for grave crimes and human rights violations in accordance with international human rights standards.

657. In the 2020 Rule of law index, Suriname was placed 76<sup>th</sup> out of 128 countries globally, and 18<sup>th</sup> out of 30 countries in Latin America and Caribbean region.<sup>1302</sup> According to Transparency International’s 2019 Corruption Perceptions Index, Suriname was ranked 70 out of the 180 countries analyzed.<sup>1303</sup> It reported that the country received a score of 44 out of a possible 100 points, a corruption perception level that is stable and high. The State assured the Commission of the Government’s intention to fight corruption and to focus on human rights and the rule of law.<sup>1304</sup> In this context, the Commission has indicated that State needs to adopt legislative, administrative, and other measures to guarantee the exercise of human rights and combat the violations and restrictions caused by corruption.<sup>1305</sup>

658. Regarding **citizen security**, the State has indicated to the Commission its intention to undertake continuous monitoring and analysis of the crime situation despite the low crime rate, and to eventually produce a publication on the status of crime prevention and citizen security.<sup>1306</sup> In this regard, the IACHR is concerned with the absence of a data management system since the lack of disaggregated and updated data on Suriname remains a challenge for carrying out country-wide analyses, including on the rule of law and corruption. Although the State had indicated in April 2019 that it was striving to narrow this data gap by launching an information management system for the police that would facilitate centralized storage of crime data,<sup>1307</sup> the Commission observes this has not yet happened.

659. With regard to **access to justice**, the State assured the Commission that measures are being taken to ensure that good practices are used to ensure the continuation of trials during the pandemic. In this context, the State indicated that the documents are now mostly transmitted electronically instead of in person. However, the State also indicated that persons in pre-trial

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<sup>1299</sup> NOS, [Chan Santokhi geïnstalleerd als president van Suriname](#), July 16, 2020

<sup>1300</sup> Reuters, [Suriname's president loses election, leaves economic chaos](#), June 16, 2020.

<sup>1301</sup> Britannica, [Suriname since Independence](#)

<sup>1302</sup> World Justice Project, [WJP Rule of Law Index](#), p.18, 2020. The universal principles of just laws, open government, accountability, accessibility, and dispute resolution were applied to assess the rank.

<sup>1303</sup> Transparency International, [Corruption Perceptions Index, 2019](#). No information was provided for the 2020 Report.

<sup>1304</sup> IACHR Meeting with CARICOM Representatives, September 29, 2020.

<sup>1305</sup> IACHR, [Resolution 1/ 8 -Corruption and Human Rights](#), City of Bogota, Colombia, March 2, 2018.

<sup>1306</sup> Response by Suriname in relation to Chapter IV, PVOAS/SUR/560/20, September 3, 2020.

<sup>1307</sup> Republic of Suriname, [National Review Implementation of the Beijing Declaration and Platform for Action + 25](#), August 2019.



detention have been severely affected by the limited access to courts and court personnel during the pandemic.<sup>1308</sup> The IACHR notes that Suriname may be able to benefit from the practical guidelines that are being prepared by the Commission, which include access to justice with the courts.

660. With regard to **children and adolescents**, the Commission is aware that UNICEF is working together with the Amazon Conservation Team (ACT) in Suriname to reach some 2,000 people in five Indigenous villages.<sup>1309</sup> The program will address the needs of an estimated 600 children living in communities that are not easily accessible in South Suriname who are impacted by COVID-19, by providing access to: essential items, WASH services, health care, and psychosocial and educational support. According to UNICEF, the data collected will serve as a baseline to monitor implementation and customize multi-sectoral interventions to reach children and adolescents.<sup>1310</sup> The IACHR also takes note of the Government's participation in developing and implementing culturally appropriate child protection systems, especially for indigenous children and adolescents.<sup>1311</sup>

661. On the rights of **lesbian, gay, bisexual, trans, gender diverse, and intersex (LGBTI) persons**, the Commission has received troubling information about so-called "conversion therapies" or efforts to correct people's sexual orientation and gender identity of LGBTI persons or persons perceived as such, in Caribbean States, including Suriname. These practices, which are generally carried out clandestinely, seriously violate human rights and cause mental, physical, or sexual harm.

662. As for **persons deprived of liberty**, the Government indicated that in the context of COVID-19, it was taking care to guarantee the physical integrity of all detainees, including women, children, and adolescents, by providing them with the same health care given to the rest of the population.<sup>1312</sup> In this sense, the Commission recalls that the adoption of these measures is urgent, especially in the context of the pandemic, to protect the life and integrity of those detained. In particular, the Commission reiterates the importance of reducing the prison population through the application of alternatives to incarceration.

#### TRINIDAD AND TOBAGO

- **General considerations**

663. In terms of **progress**, the IACHR takes note of the start of operations of the Public Defender's Department and the efforts made to counteract the backlog of criminal cases. The Commission also welcomes the measures adopted by the State to address cases of domestic violence against women. Likewise, the Commission highlights the holding of the general elections in August 2020.

664. With respect to **challenges**, the IACHR observes information that points to the increase in cases of deaths at the hands of police officers, the application of so-called "conversion

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<sup>1308</sup> Information provided to the IACHR by the State during a bilateral meeting, October 13, 2020.

<sup>1309</sup> UNICEF, UNICEF and the Amazon Conservation Team (ACT) partnering to support Indigenous communities impacted by COVID-19 in South Suriname, 24 July 2020.

<sup>1310</sup> UNICEF, UNICEF and the Amazon Conservation Team (ACT) partnering to support Indigenous communities impacted by COVID-19 in South Suriname, 24 July 2020.

<sup>1311</sup> UNICEF, Guyana and Suriname: UNICEF and the Amazon Conservation Team (ACT) partnering to support Indigenous communities impacted by COVID-19 in South Suriname, 24 July 2020.

<sup>1312</sup> Information provided by the State to the IACHR during the bilateral meeting on October 13, 2020.

therapies," and the persistence of deplorable conditions of detention of persons deprived of liberty. In addition, the Commission notes with concern the detention and deportation of persons in human mobility, including children and adolescents, as well as difficulties in registering the births in Trinidad and Tobago of children born to mothers of Venezuelan origin.

665. The State responded to the request for information sent for the preparation of this chapter.<sup>1313</sup>

- **Specific topics**

666. In the face of the **COVID-19** pandemic, the IACHR highlights the measures adopted by the State to contain the spread of the virus. The first case in the country was confirmed on March 12, 2020.<sup>1314</sup> On March 16, the Prime Minister announced that the country would close its borders, except to Trinidad and Tobago nationals and health workers.<sup>1315</sup> On the other hand, according to official information, the State also adopted at least 28 public health regulations that established measures restricting freedom of movement, such as the closure of schools, places of worship and recreational spaces, in addition to limiting by 50% the capacity of national public transportation and prohibiting social gatherings of more than 5 people.<sup>1316</sup> In September, the State imposed the obligatory use of masks by adults and children over 8 years of age, with the application of a fine for non-compliance.<sup>1317</sup>

667. According to public information, the health system response included the development and activation of the COVID Plan and the Health Emergency Operations Center, led by the executive management team of the Ministry of Health. The State also created a Cabinet-approved working group to ensure interministerial collaboration in the management of the COVID-19 pandemic.<sup>1318</sup> Also, in socio-economic terms, the State established financial support measures in the amount of \$1,500 Trinidad and Tobago dollars for eligible persons and additional assistance for persons benefiting from public social assistance and disability assistance in addition to the continuation of the school feeding program through food cards. For the reopening of the country, the State proposed a six-phase schedule that was concluded with the resumption of classes, without the opening of the borders.<sup>1319</sup> The IACHR also notes with satisfaction that the State intends to distribute

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<sup>1313</sup> Republic of Trinidad and Tobago, Information for the IACHR 2020 Annual Report, IACHR Archive, September 23, 2020.

<sup>1314</sup> World Health Organization, [Global COVID-19 pandemic data: Trinidad and Tobago](#), accessed February 5, 2021.

<sup>1315</sup> Jamaica Observer. "[Trinidad and Tobago bans all nonnationals from entering country for 14 days.](#)" March 16, 2020.

<sup>1316</sup> Republic of Trinidad and Tobago, Information for the IACHR 2020 Annual Report, IACHR Archive, September 23, 2020, pp. 4-5.

<sup>1317</sup> Republic of Trinidad and Tobago, [The Public Health \[2019 Novel Coronavirus \(2019-nCoV\)\] \(No. 28\) Regulations](#), September 12, 2020.

<sup>1318</sup> The American Journal of Tropical Medicine and Hygiene, "[Health Systems' Resilience: COVID-19 Response in Trinidad and Tobago](#)", June 9, 2020.

<sup>1319</sup> Republic of Trinidad and Tobago, Information for the IACHR 2020 Annual Report, IACHR Archive, September 23, 2020, pp. 5-7. World Nomads, [Coronavirus \(COVID-19\) travel restrictions in Trinidad and Tobago](#), November 12, 2020.

the immunization against COVID-19 free of charge for nationals and non-nationals, according to the Ministry of Health.<sup>1320</sup>

668. In terms of **human rights institutions**, Trinidad and Tobago has an Office of the Ombudsperson.<sup>1321</sup> However, there is no updated information on its official website. It should be noted that the incumbent was elected for the period 2019-2021 as a member of the Council of the Caribbean Ombudspersons Association (CAROA) during his participation in the 10th CAROA Conference.<sup>1322</sup>

669. In terms of **democratic institutions**, the Commission notes that the State held general elections on August 10, 2020. Preliminary results indicated the re-election of Dr. Keith Rowley as Prime Minister, after his party, the People's National Movement (PNM), won 22 of the 41 seats in the House of Representatives, compared to 19 seats held by the United National Congress (UNC) party. According to the information available, the results in six electoral districts were contested, five by the UNC party and one by the *Progressive Democratic Patriots* (PDP)<sup>1323</sup> party. The Elections Commission proceeded with the official recount in the six contested constituencies, and published the final results with minor adjustments to the preliminary results.<sup>1324</sup> The IACHR notes that as reported by the State, the general elections in Trinidad and Tobago were not observed by Caribbean Community Election Observers due to restrictions imposed by health protocols during the COVID-19 pandemic.<sup>1325</sup>

670. On **access to justice**, the IACHR notes the progress made by the State to reform the judicial system and counter the backlog of criminal cases. In April 2020, the Attorney General launched the Public Defenders Department. This entity will focus on criminal matters at the High Court level, and will handle all judicial and counseling matters for persons benefiting from these services.<sup>1326</sup>

671. In terms of **citizen security**, according to public information, there was an 86% increase in police killings in the first six months of 2020, compared to the same period last year.<sup>1327</sup> In particular, the Caribbean Center for Human Rights expressed its concern to the Commission regarding the alleged extrajudicial execution of three persons in June at the hands of the Trinidad and Tobago Police Service. The IACHR notes that these cases are under investigation by the *Police Complaints Authority*, a body created in 2006 to investigate complaints against police officers for crimes, corruption, and police misconduct.<sup>1328</sup> In this context, the Commission urges the State to take all actions to investigate with due diligence, in order to clarify the circumstances in which these events

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<sup>1320</sup> Stabroek News, [COVID-19 vaccine will be free for all living in Trinidad & Tobago](#), December 13, 2020.

<sup>1321</sup> Office of the Ombudsman of Trinidad and Tobago. [Publications](#).

<sup>1322</sup> Bernews. "[Ombudsman Conference a "Great Success"](#)". May 30, 2019.

<sup>1323</sup> Trinidad & Tobago Guardian, [Election result on hold as EBC starts 6 recounts](#), August 11, 2020.

<sup>1324</sup> Trinidad and Tobago Newsday, [EBC recounts show minor changes](#), August 18, 2020.

<sup>1325</sup> Republic of Trinidad and Tobago, Information for the IACHR 2020 Annual Report, IACHR Archive, September 23, 2020, p. 1.

<sup>1326</sup> Republic of Trinidad and Tobago, Information for the IACHR 2020 Annual Report, IACHR Archive, September 23, 2020, pp. 3 – 4.

<sup>1327</sup> Trinidad & Tobago Guardian, [Shocking increase in police killings](#), June 30, 2020.

<sup>1328</sup> Caribbean Centre for Human Rights, Human Rights in Trinidad and Tobago: country report, IACHR Archive, September 30, 2020, p. 1. Republic of Trinidad and Tobago, Information for the IACHR 2020 Annual Report, IACHR Archive, September 23, 2020, p. 2.

occurred, and to identify and punish those responsible. Likewise, the State must take the necessary measures to ensure that this type of incident does not happen again.

672. With regard to the **rights of persons in human mobility**, the Commission followed up on the detention of persons in human mobility, including families, children, and adolescents, as well as the deportation or expulsion of Venezuelan persons from Trinidad and Tobago, without access to asylum or protection procedures.<sup>1329</sup> The Commission also notes with concern the discriminatory and stigmatizing discourse on the part of State authorities who accuse persons in an irregular migration situation of spreading the COVID-19 virus.<sup>1330</sup> In this regard, the Ministry of National Security stated that according to the Migration Law and the current situation resulting from the COVID-19 pandemic, any person who enters the country irregularly becomes "undesirable."<sup>1331</sup>

673. Regarding **trafficking in persons**, public information indicates that more than 80% of the victims of trafficking in persons in Trinidad and Tobago are persons in a situation of mobility.<sup>1332</sup> The IACHR also notes that at least 30 police officers are under investigation for alleged involvement in cases of human trafficking between Venezuela and Trinidad and Tobago.<sup>1333</sup>

674. Regarding the rights of children and **adolescents**, the Commission learned of the difficulties with registering the births of children born in Trinidad and Tobago to parents of Venezuelan origin who are in an irregular situation or who have been registered as part of the registration process promoted by the State.<sup>1334</sup> In this regard, the Commission recalls the duty of the State to adopt administrative, legislative, and judicial measures necessary to eradicate statelessness, including measures for prevention, identification, protection, and reduction, such as universal birth registration of the children of migrants, ensuring equality between women and men in terms of transmitting nationality to their children, especially if the child would otherwise be stateless.<sup>1335</sup>

675. The IACHR also warns that, according to data from the Trinidad and Tobago Children's Authority, cases of abuse against children and adolescents have exceeded 4,000 cases per year. In this regard, in a press release published in November, the Authority stated that, during the

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<sup>1329</sup> IACHR [@CIDH]. (Nov. 23, 2020). *The @IACHR expresses its concern over the deportation, on #22Nov, of Venezuelan migrants including 16 #NiñasNiñosAdolescentes, some unaccompanied* [Tweet]. Twitter. <https://twitter.com/CIDH/status/1331010624558682115>. IACHR, Resolution 93/20, MC 1100/20 - Six migrant children and adolescents, Trinidad and Tobago. IACHR, Press Release No. 299/20 - IACHR deploras the deaths of Venezuelan persons, including children, and urges States to guarantee access to asylum procedures and international protection, December 15, 2020.

<sup>1330</sup> Facebook - CNC3 Television, Ministry of Health news conference, July 25, 2020. Facebook - Trinidad and Tobago Police Service, Illegal immigration can cause a new wave of COVID-19 in Trinidad and Tobago, July 27, 2020.

<sup>1331</sup> Facebook - CCN TV6, Ministry of National Security Stuart Young host media conference, November 24, 2020. Loop, 165 Venezuelans repatriated in human trafficking crackdown, July 29, 2020.

<sup>1332</sup> Newsday, CTU director: Strong TT demand for sex services, June 4, 2020.

<sup>1333</sup> Trinidad & Tobago Guardian, 30 cops under human trafficking probe, July 22, 2020.

<sup>1334</sup> OBMICA, Increasing risk of statelessness for children born to Venezuelans, Year 10 - Number 3, September 2020, p. 5.

<sup>1335</sup> IACHR, Resolution 04/19 Inter-American Principles on the Human Rights of All Migrants, Refugees, Stateless Persons, and Victims of Trafficking in Persons, December 7, 2019, 27.

pandemic, it has observed "an increasing number of children who lack care and guardianship, who are emotionally abused and in need of supervision."<sup>1336</sup>

676. Regarding women's **rights**, the Commission took note of the measures adopted by the State to address cases of violence against women in the domestic sphere. In particular, the State reported that in July a reform to the Law on Domestic Violence was enacted that sought to expand definitions of the Law and also the category of persons who may request a protection order.<sup>1337</sup> Likewise, the IACHR took note of the entry into force of the electronic supervision as an alternative measure for persons prosecuted for domestic violence. The intention, here, is to protect the personal integrity of the survivors and their families.<sup>1338</sup> In addition, the Commission learned of the establishment of the Gender-Based Violence Unit within the Trinidad and Tobago Police Service (TTPS), which has made strong calls to eradicate gender-based violence.<sup>1339</sup>

677. This is of particular relevance, considering that the IACHR received information on alarming numbers of reports of violence against women, particularly in the private domestic sphere. According to information provided by the Police Department, during the first months of confinement, through April 2020, 558 cases of violence were reported, compared to 232 reported during the same period in 2019; which would indicate that cases have increased in the context of the containment measures of the COVID-19 pandemic.<sup>1340</sup>

678. On the rights of **lesbian, gay, bisexual, trans, gender diverse, and intersex (LGBTI) persons**, the Commission took note of the concern expressed by civil society organizations regarding the lack of attention and discussion in the political forum of the human rights needs of LGBTI persons.<sup>1341</sup> The Commission has also received troubling information from the Caribbean region, including Trinidad and Tobago, about so-called "conversion therapies" that are generally conducted clandestinely, seriously violate human rights, and cause mental, physical, or sexual harm through efforts to "correct" the sexual orientation, gender identity, or gender expression of LGBTI persons or persons perceived to be LGBTI.<sup>1342</sup>

679. With respect to the rights of persons **deprived of liberty**, the IACHR notes with satisfaction the reform to the Administration of Justice (Electronic Monitoring) Act, which expands the grounds for the application of electronic devices as an alternative measure to the deprivation of liberty in the country.<sup>1343</sup> On the other hand, the Commission received information that the conditions of

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<sup>1336</sup> Children's Authority of Trinidad and Tobago, Children's Authority Calls on the Public to Defend the Rights of Children, November 19, 2020.

<sup>1337</sup> Republic of Trinidad and Tobago, Information for the IACHR 2020 Annual Report, IACHR Archive, September 23, 2020, p. 2.

<sup>1338</sup> Trinidad and Tobago Newsday, Ankle monitor amendments approved by President, October 5, 2020.

<sup>1339</sup> Trinidad and Tobago Newsday, Police Report Domestic Violence, April 14, 2020.

<sup>1340</sup> Global Voices, Stay-at-home orders accompanied by rise in domestic violence in Trinidad & Tobago, April 30, 2020. ONU, Enlisting all of society in the elimination of gender-based violence in Trinidad and Tobago, May 2020.

<sup>1341</sup> Newsday, LGBT+citizens overlooked in election, August 12, 2020.

<sup>1342</sup> IACHR, Hearing on the Situation of the Human Rights of LGBTI Persons in the Caribbean, Session No. 178, December 8, 2020; OHCHR, "Conversion therapies" can amount to forms of torture and should be banned, says UN expert, July 13, 2020.

<sup>1343</sup> Republic of Trinidad and Tobago, Information for the IACHR 2020 Annual Report, IACHR Archive, September 23, 2020, p. 3.

detention prevailing in the prisons of Trinidad and Tobago are reportedly incompatible with human dignity, and entail risks to the life and integrity of detainees.<sup>1344</sup> In the context of the COVID-19 pandemic, according to information from the Ministry of Legal Affairs, at least 957 persons deprived of their liberty qualified for release, as part of the State's efforts to prevent contagion in detention units.<sup>1345</sup> However, the IACHR warns that, according to data from the Caribbean Center for Human Rights, as of September 2020, only 121 people had received the benefit.<sup>1346</sup> In this regard, the IACHR reiterates to the State the importance of adopting and implementing urgent measures to guarantee the health and integrity of persons deprived of liberty; especially, it recalls the importance of making immediate efforts to reduce the prison population through the application of alternatives to incarceration.<sup>1347</sup>

#### **UNITED STATES OF AMERICA**

- **General considerations**

680. With respect to **progress**, the IACHR highlights the effective functioning of electoral institutions, the adoption of legislative reforms in the area of security, the actions of the judiciary in protecting the human rights of migrants, and the continuation of the Deferred Action for Childhood Arrivals (DACA) program. The IACHR also welcomes the U.S. Supreme Court's rejection of the Louisiana state law that would restrict the voluntary termination of pregnancy.

681. In relation to the **challenges**, the persistence of situations of racially biased police violence against Afro-descendants and the application of the death penalty continue to be of particular concern. In addition, with respect to persons in a situation of human mobility, the IACHR expresses its concern about migration policies that hinder the rights and restrict the guarantees of persons in a situation of human mobility, mainly refugees and persons in need of protection. In addition, the IACHR reiterates its condemnation of institutional practices and omissions that generate situations in which migrant children and adolescents are separated from their families. Likewise, it highlights the reports of sterilizations and surgical interventions, without due information and prior consent, against migrant women.

682. The State responded to the request for information sent for the preparation of this chapter<sup>1348</sup>.

- **Specific topics**

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<sup>1344</sup> Caribbean Centre for Human Rights, Human Rights in Trinidad and Tobago: country report, IACHR Archive, September 30, 2020, pp. 6-8.

<sup>1345</sup> Newsday, Al-Rawi: 957 prisoners qualify for covid-19 release, April 17, 2020.

<sup>1346</sup> Caribbean Centre for Human Rights, Human Rights in Trinidad and Tobago: country report, IACHR Archive, September 30, 2020, p. 2.

<sup>1347</sup> IACHR, Resolution No. 1/2020 - Pandemic and Human Rights in the Americas, April 10, 2020; IACHR, Press Release 66/20 - IACHR Urges States to Guarantee the Health and Integrity of Persons Deprived of Liberty and their Families in the Face of the COVID-19 Pandemic, Washington, D.C., March 31, 2020.

<sup>1348</sup> As a response for Chapter IV of the 2020 IACHR Annual Report, the State sent the national contribution document submitted to the United Nations Human Rights Council for the Universal Periodic Review, "National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21", dated August 13, 2020.

683. With respect to the situation of the **COVID-19 pandemic**, the Commission has followed the measures adopted by the United States to combat the pandemic and its impact on the conditions of integral protection of human rights, the high rates of infection and the high number of deaths of persons, as well as the disproportionate effects faced by groups at special risk, such as indigenous persons, persons of African descent, elderly persons, migrants, and asylum seekers. Regarding the fight against the pandemic, the IACHR followed up on the measures adopted, such as the mandatory social distancing, the limitation of the operation of restaurants and other businesses, and travel restrictions. In this regard, the IACHR observes heterogeneity and asymmetry among the protection actions in the territory during the period under review.<sup>1349</sup> Regarding the high rates of infection and deaths, according to information from the COVID-19 Resource Center of the Johns Hopkins University, the United States is the country with the highest number of infections and deaths from the COVID-19 virus in the world. According to reported data, by the end of 2020 the country had recorded more than 25 million cases of infection and nearly 400,000 deaths.<sup>1350</sup>

684. In the United States, the first case was reported on January 20, 2020.<sup>1351</sup> To prevent the spread of the pandemic, alleviate the economic effects, and address the social impacts, the Government adopted a series of executive and legislative measures at the federal level. However, the decision to take preventive actions against the spread of the pandemic, such as enacting mandatory pre-emptive isolation, limiting the movement of people, and closing schools and public and private facilities was left to the discretion of State and local governments based on their delegated powers.<sup>1352</sup> At the federal level, on January 31, the Government declared a state of public health emergency based on the *Public Health Service Act*.<sup>1353</sup> Later, on March 13, it decreed two additional emergency declarations based on the *Stafford Act* and the *National Emergencies Act*. Finally, on March 18, it invoked additional emergency powers based on the *Defense Production Act*.<sup>1354</sup>

685. At the legislative level, Congress passed several laws to respond to the pandemic. Among them, on March 18 it passed the *Families First Coronavirus Response Act*, which provided a number of benefits including tax credits, increased access to food assistance, and increased medical financing benefits through public programs such as *Medicaid*. It also passed the *Paycheck Protection Program and Health Care Enhancement Act*, which provided an additional \$484 billion in appropriations to support programs to ensure that funding was available at the local level to test for Coronavirus, support various government agencies such as the Center for Disease Control, and support community health centers.<sup>1355</sup> Despite the adoption of these measures, the IACHR notes with concern the reluctance shown by high-level federal authorities to abide by the recommendations

<sup>1349</sup> CNN, [In U.S. millions awaken to massive restrictions to contain coronavirus](#), March 16, 2020. See also: CNN, U.S. Senate approves relief measures to deal with coronavirus, March 18, 2020.

<sup>1350</sup> Johns Hopkins University, Coronavirus Report Center. <https://coronavirus.jhu.edu/map.html>

<sup>1351</sup> Holshue, Michelle, L, DeBolt Chas et al. [First Case of the 2019 Novel Coronavirus in the United States](#). The New England Journal of Medicine, January 31, 2020.

<sup>1352</sup> Library of Congress. United States: [Federal, State, and Local Government Responses to COVID-19](#). November 2020, LLFile No. 2021-019570.

<sup>1353</sup> National Conference of State Legislatures. [President Trump Declares State of Emergency for COVID-19](#), March 25, 2020.

<sup>1354</sup> National Conference of State Legislatures. [President Trump Declares State of Emergency for COVID-19](#), March 25, 2020.

<sup>1355</sup> National Conference of State Legislatures. [President Trump Declares State of Emergency for COVID-19](#), March 25, 2020.



issued by the World Health Organization (WHO) and the country's own Center for Disease Control to prevent the spread of the pandemic.

686. With respect to the cross-cutting issue of **human rights institutions**, the IACHR recognizes that the United States does not directly have a domestic institution at the federal level dedicated exclusively to the protection of human rights.<sup>1356</sup> In this context, the IACHR is concerned about the series of measures adopted in the United States during 2020 that undermined previous legislative and administrative advances in the protection of the civil and political rights of minorities. The IACHR noted that such measures were adopted by various government departments and agencies to limit existing protections of minority rights in access to housing, labor, health, and education, among other areas, during the year. Examples include the proposal by the Department of Housing and Urban Development to eliminate a rule for more efficient use of Affirmative Action in the Fair Access to Housing rule issued on January 7, 2020.<sup>1357</sup>

687. In addition to these measures, the IACHR is concerned that actions were taken that limit the training of public employees in the protection of rights. In this regard, the IACHR notes that on September 4, the director of the Office of Budget Management sent an instruction to the heads of the various government agencies to end training related to equality and non-discrimination. Subsequently, on October 8, the Department of Justice suspended all training for its personnel on diversity and inclusion.<sup>1358</sup>

688. In the area of **democratic institutions**, the Commission has followed the presidential elections, their results and the transition of government. The IACHR took note of the November 6 victory of the Democratic Party candidate, who took office on January 20, 2021. It also welcomed the presidential ticket that made Kamala Harris the first African American and Asian American woman and person to become Vice President of the United States.

689. On the other hand, the IACHR noted with concern the delays and tensions in the procedures of the transition from the government to the new federal administration. The IACHR recognizes the functioning of the electoral and judicial institutions involved in the validation and guarantees of due process in accordance with constitutional and legal guarantees; and welcomes the State's actions in guaranteeing the holding of free and democratic elections. However, through a press release dated January 8, the IACHR expressed concern about the intensification of discourse that promoted serious tension in the social fabric in the post-electoral context that culminated in the acts of violence against the U.S. Capitol, committed on January 6, 2021, against democratic institutions and procedures, and which resulted in the death of seven people. The IACHR observed that these aggressions did not occur spontaneously and were the result of a constant environment of stigmatization of the work of the media encouraged by the highest authorities. In this regard, the Commission emphasized the State's duty to guarantee full respect for its democratic institutions, as

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<sup>1356</sup> The Leadership Conference and Columbia Law School. [The Road to Rights: Establishing a Domestic Human Rights Institution in the United States](#).

<sup>1357</sup> IACHR. [Police Violence Against Afro-descendants in the United States](#), November 26, 2018. See also: The Leadership Conference on Civil and Human Rights. [Trump Administration Civil and Human Rights Rollbacks](#).

<sup>1358</sup> The Leadership Conference on Civil and Human Rights. [Trump Administration Civil and Human Rights Rollbacks](#).

well as to rigorously investigate the facts, punish those responsible, and guarantee their non-repetition.<sup>1359</sup>

690. Regarding **citizen security**, the Inter-American Commission welcomes various legislative advances in the area of security, particularly the Executive Order on Safe Policing for Safe Communities and initiatives such as the George Floyd Justice in Policing Act of 2020.<sup>1360</sup> The IACHR appreciates the efforts of the United States to move toward comprehensive changes and encourages extending these proposals to the justice system, which requires profound reforms aimed at eradicating structural racism. Despite these advances in this area, the Commission noted with concern the continuity of systemic police violence, especially against Afro-descendants, as well as the impunity surrounding those acts. At the same time, the IACHR monitored citizen security policies that included the use of armed forces and militarization.

691. The IACHR notes that, according to publicly available information, hundreds of peaceful political and anti-racist demonstrations and counter-protests, including by racist groups, took place in different states of the country during 2020. In this regard, the State rejects the notion that public safety in the country is systematically racist, noting that every day thousands of law enforcement officers defend the rule of law and the civil rights of individuals and communities across the country, while performing the difficult and dangerous work of keeping communities safe.<sup>1361</sup> At the same time, the State recognizes that due to historical and recent factors, there may be ambivalence and distrust towards the police, especially in Afro-descendent communities. In this regard, it notes that it issued an executive order on "Safe Policing for Safe Communities" to develop and encourage critical police reforms.<sup>1362</sup>

692. Moreover, in the context of the protests, the IACHR notes the presence of individuals and groups who, under the pretext of defense of the Second Amendment to the U.S. Constitution, have reportedly carried firearms, including those used against anti-racist demonstrators.<sup>1363</sup> According to public information, there has been an increase in their presence also in protests linked to the elections. Likewise, in the context of protests, these individuals have publicly displayed weapons and expressed their disagreement with the measures taken during the pandemic by the governors of several states. Of these cases, the IACHR highlights events in the state of Michigan, where armed demonstrators stormed the Capitol.<sup>1364</sup>

693. In this context, the Commission reiterates its call to the State to move forward with structural reforms in its security and justice systems, focusing on changes geared to eradicating

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<sup>1359</sup> IACHR, Press Release No. 005/21. [The IACHR repudiates acts of violence against the Congress of the United States of America and the democratic process in the country](#), January 8, 2021.

<sup>1360</sup> Federal Register, [Executive Order No.13929](#), Safe Policing for Safe Communities, June 16, 2020. See also Congress Gov, [George Floyd Justice in Policing Act of 2020](#), June 19, 2020

<sup>1361</sup> State Inputs for Chapter IV of the 2020 IACHR Annual Report, August 16, 2019, p. 5.

<sup>1362</sup> State Inputs for Chapter IV of the 2020 IACHR Annual Report, August 16, 2019, p. 5.

<sup>1363</sup> BBC, [Trump vs. Biden: how the presence of armed militias is growing in the United States and why they are considered a danger to elections](#), September 21, 2020.

<sup>1364</sup> Infobae, [Armed protesters stormed the Michigan capitol to demand the lifting of coronavirus containment measures](#), May 1.

institutional racism.<sup>1365</sup> In a press release dated August 8, the IACHR expressed the need for the United States to implement a community policing model with social participation and monitoring, independent police oversight and control bodies, and special measures for effective access to justice for this ethnic-racial group.<sup>1366</sup> These efforts should focus on the special protection required by structurally and historically excluded groups, for whom multiple factors of discrimination converge: a consideration developed further in the section on the rights of Afro-descendants.

694. Regarding the situation of **people of African descent**, the Commission notes with concern the police violence against African Americans as a result of structural discrimination and systematic racism. In this regard, the IACHR condemned several cases of police violence, such as the death of George Floyd on May 25 by police officers in Minneapolis<sup>1367</sup> and of Breonna Taylor, who reportedly died after being shot several times by three officers in Kentucky.<sup>1368</sup> The IACHR also voiced its concern at the death of Daniel Prudem on March 23, who was allegedly the victim of police violence in Rochester, New York. The IACHR also noted with concern the case of African-American Dijon Kizsee, on August 31, in Los Angeles; and the murder of Deon Kay, on September 2 in Washington D.C.; both of whom reportedly died as a result of various police shootings.<sup>1369</sup>

695. The Inter-American Commission also condemned the murders of Trayford Pellerin, on August 21 in Louisiana, and Jacob Blake, on August 23 in Kenosha, Wisconsin, who reportedly died after being shot by police officers.<sup>1370</sup> The IACHR also issued a statement on the death of Walter Wallace on October 26 in Philadelphia after he was shot by police.<sup>1371</sup> The Commission also recorded the deaths of two African-American youths in Florida, Angelo Crooms, aged 16, and Sincere Pierce, aged 18, who after being shot by police officers reportedly died in the hospital.<sup>1372</sup> The IACHR took note of the deaths of Andre Hill in Ohio on December 22<sup>1373</sup> and Rayshard Brooks in Georgia on June 12, both of whom were reportedly shot by police.<sup>1374</sup> The Commission notes that these cases are part of the historical and structural, and systematically manifested discrimination based on ethno-racial origin in the United States.

696. In particular, with respect to people of African descent, the Commission notes that the situation of special risk vis-à-vis COVID-19 is a consequence of the structural and historical racial discrimination to which they have been exposed. In this regard, the Commission takes note of

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<sup>1365</sup> IACHR, Press Release No. 196/20 - [IACHR Calls on United States to Implement Structural Reforms in Institutional Security and Justice Systems to Combat Historical Racial Discrimination and Institutional Racism](#), August 8, 2020.

<sup>1366</sup> IACHR, Press Release No. 196/20 - [IACHR Calls on United States to Implement Structural Reforms in Institutional Security and Justice Systems to Combat Historical Racial Discrimination and Institutional Racism](#), August 8, 2020.

<sup>1367</sup> IACHR, [Press Release No. 129](#), IACHR expresses strong condemnation of the murder of George Floyd, repudiates structural racism, systemic violence against people of African descent, impunity, and disproportionate use of police force, and demands urgent measures to guarantee equality and non-discrimination in the United States, June 8, 2020.

<sup>1368</sup> IACHR, [Press Release No. 129](#), IACHR expresses strong condemnation of the murder of George Floyd, repudiates structural racism, systemic violence against people of African descent, impunity and disproportionate use of police force, and demands urgent measures to guarantee equality and non-discrimination in the United States, June 8, 2020.

<sup>1369</sup> IACHR, [Tweet](#), September 5, 2020

<sup>1370</sup> IACHR, [Tweet](#), August 25, 2020

<sup>1371</sup> IACHR, [Tweet](#), October 28, 2020

<sup>1372</sup> The New York Times, [Fatal Shooting of 2 Black Teenagers by Florida Deputy Is Under Investigation](#), Nov. 22, 2020

<sup>1373</sup> NBC4, [Officer who shot Andre Hill previously suspended for using excessive force](#), January 13, 2021

<sup>1374</sup> AJC, [Rayshard Brooks' death brought issues of race, police use of force to forefront](#), January 15, 2021

available official information that shows that in different places there is a differentiated impact with respect to this population group. Thus, data from the Government of Minnesota indicate that the African-American population reportedly accounted for 9% of the total number of COVID-19 infections and 12% of the cases of hospitalization, despite the fact that this group makes up 7% of the total population.<sup>1375</sup> Likewise, *The New England Journal of Medicine* reported that by April 2020, 76.9% of hospitalizations in the state of Louisiana involved African Americans.<sup>1376</sup>

697. In relation to the situation of the **rights of migrants, asylum seekers and refugees**, the Commission closely monitored the effect of policies, actions, and discourse that violated their rights, as well as the aggravated impact caused by the measures adopted by the State in the context of the COVID-19 pandemic. In this regard, through a press release of August 8, the IACHR expressed its concern about the restrictions and obstacles to access rights, as well as the reduction of guarantees suffered by persons in a situation of human mobility in the country. Similarly, the IACHR warned about decisions and practices of the Executive Branch that questioned the validity of legislation and jurisprudence, with the objective of changing public policies aimed at protecting migrant refugees and other persons in need of protection.<sup>1377</sup> In this context, the IACHR highlighted measures such as: i) the actions taken to discontinue the DACA Program, ii) the publication of rules that allowed for expedited removals and hindered processes for evaluating credible fear of persecution or torture under asylum procedures, and iii) the efforts to abandon implementation of the so-called Flores Agreement on the treatment of migrant children.<sup>1378</sup> The IACHR also monitored the continued implementation of the *Migration Protection Protocols (MPP)* and the safe third country agreements. For its part, the State reported that in recent years there has been a humanitarian and security crisis caused by a dramatic increase in the number of migrants encountered along or near the U.S.-Mexico border, including unaccompanied children.<sup>1379</sup> In this regard, the IACHR notes the issuance of the Presidential Executive Order of February 2, 2021, which creates the interagency task force to reunite children separated from their families at the U.S.-Mexico border.<sup>1380</sup>

698. On the comprehensive protection of the human rights of refugees and asylum seekers, the IACHR notes with concern the presidential determination on refugee admissions for fiscal year 2021, issued on October 27, 2020, which projects that the refugee admissions program will reduce, in 2021, the number of refugees to be admitted to the United States in resettlement actions.<sup>1381</sup> This figure would be the lowest in the country's history and would represent 3 thousand fewer people than projected in 2019, for implementation in 2020, and 15 thousand fewer than in 2018.<sup>1382</sup> With regard to pending cases for asylum processing in 2020, as of October 13, a total of

<sup>1375</sup> Minnesota Covid-19 response, [Data by Race/Ethnicity](#)

<sup>1376</sup> *The New England Journal of Medicine*, [Hospitalization and Mortality among Black Patients and White Patients with Covid-19](#), June 25, 2020.

<sup>1377</sup> IACHR, Press Release No. 179/20, [The IACHR expresses its concern about the restriction of the rights of migrants and refugees in the United States in the face of the COVID-19 pandemic](#), July 25, 2020.

<sup>1378</sup> IACHR, Press Release No. 179/20, [The IACHR expresses its concern about the restriction of the rights of migrants and refugees in the United States in the face of the COVID-19 pandemic](#), July 25, 2020.

<sup>1379</sup> State Inputs for Chapter IV of the 2020 IACHR Annual Report, August 16, 2019, p. 10.

<sup>1380</sup> White House, Estados Unidos, [Executive Order on the Establishment of Interagency Task Force on the Reunification of Families](#), February 9, 2021.

<sup>1381</sup> U. S. Department of State, Estados Unidos [Presidential Determination on Refugee Admissions for Fiscal Year 2021](#), October 29, 2020.

<sup>1382</sup> IACHR, Annual Report, [Chapter IV. A "Human Rights Developments in the Region"](#), 2019, para. 298.

1,252,028 cases involving asylum, withholding, removal, deportation, and exclusion were officially registered.<sup>1383</sup> In addition, according to official figures, as of the same date, 54.55% of asylum requests were denied, and 19.12% were approved.<sup>1384</sup> With respect to migrants, the *Inadmissibility on Public Charge Grounds Final Rule* was implemented nationwide on February 24.<sup>1385</sup>

699. In addition, the Commission continued to follow up on the Migrant Protection Protocols (MPPs).<sup>1386</sup> According to public information, as of September 30, 67,790 migrants were in Mexico awaiting a decision on their immigration or refugee<sup>1387</sup> status. According to official Customs and Border Protection figures, through the application of these protocols at the Southwest border, between January and December, 506,840 persons were apprehended, that is, detained or subjected to some type of containment action.<sup>1388</sup> Likewise, 11,553 were subject to the MPPs.<sup>1389</sup> Notwithstanding the above, relocation programs in Mexico and voluntary assistance programs continued to operate.<sup>1390</sup>

700. During a public hearing on October 9, the IACHR was also informed about the obstacles that persons seeking asylum or other forms of protection face in the United States<sup>1391</sup> from inclement weather. Likewise, regarding the restriction of the rights of migrants and refugees in the context of the pandemic, in a press release on July 25, 2020, the IACHR voiced its concern regarding the adoption of measures that hinder their access to legal protection processes.<sup>1392</sup> In particular, those measures include the proposed rules allowing for expedited removals and the hindering of asylum

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<sup>1383</sup> Department of Justice, United States, [Executive Office for Immigration Review Adjudication Statistics - Pending Cases, 1 New Cases, and Total Completions](#), update to October 13, 2020.

<sup>1384</sup> Department of Justice, United States, [Executive Office for Immigration Review Adjudication Statistics - Asylum Decision Rates](#), updated to October 13, 2020.

<sup>1385</sup> U.S. Citizenship and Immigration Services, United States, [Public Charge](#), updated September 22, 2020.

The final burden-based inadmissibility rule was implemented as a consequence of two rules serving the same purpose issued by the government in late 2019. One for cases decided in the United States and, the other for cases decided at U.S. consulates and embassies abroad. Initially, because of litigation in several cases, the first of the rules had been blocked. However, both rules became effective on February 24, 2020.

<sup>1386</sup> IACHR, Annual Report, [Chapter IV. A "Human Rights Developments in the Region"](#), 2019, par. 293.

<sup>1387</sup> TRAC Immigration, [Details on MPP \(Remain in Mexico\) Deportation Proceedings](#), updated September 2020.

<sup>1388</sup> U.S. Customs and Border Protection, United States, [Migrant Protection Protocols- USBP Apprehensions by Southwest Border Sector](#), updated to September 2020.

<sup>1389</sup> U.S. Customs and Border Protection, United States, [Migrant Protection Protocols- Southwest Border Enrollments in MPP](#), updated to September 2020.

<sup>1390</sup> IACHR, Press Release No. 179/20 - [The IACHR expresses its concern about the restriction of the rights of migrants and refugees in the United States in the face of the COVID-19 pandemic](#), July 25, 2020.

<sup>1391</sup> IACHR, Public Hearing "[Situation of the Human Rights of Migrants, Refugees and Unaccompanied Children and Adolescents in the Region](#)", 177th regular session, October 9, 2020. Information contributed by Bill O. Hing and Jacqueline Brown Scott Co-Directors Immigration & Deportation Defense Clinic University of San Francisco; Michelle Brané Senior Director Migrant Rights and Justice Program Women's Refugee Commission; Nicole Ramos Director Border Rights Project Al Otro Lado; Gretchen Kuhner Founder and General Director Instituto para las Mujeres en la Migración A.C. (IMUMI); and, Joanna Williams Director of Education and Advocacy Kino Border Initiative (KBI).

<sup>1392</sup> IACHR, Press Release No. 179/20 - [The IACHR expresses its concern about the restriction of the rights of migrants and refugees in the United States in the face of the COVID-19 pandemic](#), July 25, 2020.

procedures, the temporary suspension of hearings, and efforts to abandon implementation of the Flores Agreement on the treatment of migrant children.<sup>1393</sup>

701. In this context, the IACHR recognized the relevance of the role of the Judiciary in the protection of the fundamental rights of populations in conditions of human mobility, which has been reflected in several decisions issued during the year under review.<sup>1394</sup> Regarding the Deferred Action for Childhood Arrivals (DACA) program, the U.S. Supreme Court ruled on June 18 to prevent the federal administration from immediately terminating it.<sup>1395</sup> The IACHR welcomed the decision, which analyzed compliance with procedural requirements and described as insufficient the reasons given by the government for immediate termination.<sup>1396</sup> According to publicly available information, DACA was able to protect approximately 700,000 people from deportation. Also, in July, the Department of Homeland Security (DHS) issued a memorandum stating that new applications for DACA would not be accepted and renewals would be limited to one year instead of two.<sup>1397</sup> However, in response to that memo, a federal judge ruled in November that those new rules will not be valid.<sup>1398</sup> With the new administration, the IACHR observes the set of Executive Branch and Congressional initiatives presented between January and February 2021 with the objective of addressing and proposing institutional changes in this area. These changes include family reunification, regularization of immigration status, and a pathway for the naturalization of DACA beneficiaries, as well as a review of procedures in immigration institutions.<sup>1399</sup>

702. Regarding the conditions of immigration detention, the Commission expressed its concern about serious situations, especially in the context of the COVID-19 pandemic. Regarding the impact of the pandemic on persons in the context of human mobility in the custody of the State in the country, the Commission notes with concern the spread of COVID-19 in centers and other places of immigration detention. Likewise, through its Press Release of October 30, the IACHR highlighted allegations related to: i) sexual abuse and gender-based violence, ii) deprivation of the right to freedom of religion and worship, iii) deplorable detention conditions, and iv) forced separation of migrant children and adolescents.

703. The IACHR also condemned reports of sterilizations and surgeries performed on women in violation of their reproductive rights at the immigration detention center in Irwin County, Georgia,<sup>1400</sup> without proper information and prior consent. According to a complaint filed by human rights organizations with the DHS Office of the Inspector General, there have been multiple violations of the human rights of the migrant population deprived of their liberty, mainly to the detriment of women. In addition to the sterilizations indicated above, other violations of rights occurred in the

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<sup>1393</sup> IACHR, Press Release No. 179/20 - The IACHR expresses its concern about the restriction of the rights of migrants and refugees in the United States in the face of the COVID-19 pandemic, July 25, 2020.

<sup>1394</sup> IACHR, Press Release No. 179/20, The IACHR expresses its concern about the restriction of the rights of migrants and refugees in the United States in the face of the COVID-19 pandemic, July 25, 2020.

<sup>1395</sup> The New York Times, What is DACA and why did it end up in the U.S. Supreme Court? June 18, 2020.

<sup>1396</sup> IACHR, "The @CIDH I welcome the decision of the Supreme Court", June 18, 2020.

<sup>1397</sup> CNN, Trump administration to review DACA and reject new applications, July 18, 2020.

<sup>1398</sup> CNN, Federal judge says new DACA rules invalid, Nov. 14, 2020.

<sup>1399</sup> ABCNews, Democrats introduce Biden's immigration reform bill, February 18, 2021.

<sup>1400</sup> IACHR, Press Release No. 262/20 - IACHR expresses concern over allegations of sterilizations and surgical interventions without consent in immigration detention center in the United States, October 30, 2020.

context of the pandemic: i) negligent general medical care<sup>1401</sup>; ii) lack of efficient measures to prevent the spread of COVID-19; iii) obstacles in accessing medical services due to language barriers reflected in the lack of interpreters; and iv) discriminatory treatment and intimidation against Spanish-speaking migrants, especially by medical personnel at the center. In this context, the IACHR urged the State to immediately eradicate these types of procedures, as well as to investigate, prosecute, and punish those responsible, and reminded it of its duty to guarantee effective remedies to victims when their rights have been violated, and to prevent the repetition of violations.<sup>1402</sup>

704. With respect to **migrant children and adolescents**, the Commission monitored the impact of the pandemic on their situation, which was reportedly impaired by the extension of their stay in facilities administered by the Office of Refugee Resettlement (ORR) and their exposure to COVID-19 infection, as well as by the policy of separation from their families. The IACHR urges the State to strictly observe the duty of special protection of children, to consider their best interests in all decisions affecting them, and to respect the principle of non-refoulement. In addition, the Commission recalls that restrictions on human mobility must necessarily serve the legitimate purpose of protecting life and health, and that the context of the pandemic should not be used to weaken or reduce the forms of protection granted by countries, such as refuge, asylum, and complementary protection.<sup>1403</sup>

705. Regarding **persons deprived of liberty**, the State informed the IACHR that, in the context of COVID-19, it adopted various measures. In particular, it indicated that in mid-July, a 20,053 persons at greater risk of COVID-19 were identified in federal prisons to be transferred to house arrest.<sup>1404</sup> Likewise, the State reported on the development of protocols to evaluate personnel and detainees with possible risk exposure factors.<sup>1405</sup> Despite this, and according to information from the *COVID Prison Project*, as of January 28, 2021, the number of intramural positive cases of COVID-19 reportedly increased to more than 371,783, and the number of deaths caused by the virus exceeded 2,293.<sup>1406</sup> Similarly, the IACHR learned of a complaint filed on October 21, 2020 by the *American Civil Liberties Union (ACLU)* against the Federal Bureau of Prisons, the Department of Justice, and the Department of Health and Human Services, demanding the release of records of those agencies related to the government's response to the spread of COVID-19 in prisons and jails.<sup>1407</sup> Previously, in April and July, the ACLU reportedly made Freedom of Information Act (FOIA) requests to the Federal Bureau of Prisons, the Department of Justice, and the Center for Disease Control and Prevention to obtain information about the government's lack of preparedness for the risk of COVID-19 in the prison

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<sup>1401</sup> Regarding the allegations of negligence in health care, according to information available to the Commission, the main allegations consist of: 1) inadequate or non-existent medical care, 2) insufficient cleaning and disinfection services, and 3) shortage of general and medical personnel.

<sup>1402</sup> IACHR, Press Release No. 262/20 - IACHR expresses concern over allegations of sterilizations and surgical interventions without consent in immigration detention center in the United States, October 30, 2020.

<sup>1403</sup> IACHR, Press Release No. 179/20 - The IACHR expresses its concern about the restriction of the rights of migrants and refugees in the United States in the face of the COVID-19 pandemic, July 25, 2020.

<sup>1404</sup> United States Department of State, US Response: Situation of persons deprived of liberty in the United States in the context of the COVID-19 pandemic (Article 18 - IACHR Statue). October 23, 2020.

<sup>1405</sup> United States Department of State, US Response: Situation of persons deprived of liberty in the United States in the context of the COVID-19 pandemic (Article 18 - IACHR Statue). October 23, 2020.

<sup>1406</sup> The COVID Prison Project, *COVID-19 Cases in Prisons*, January 28, 2020.

<sup>1407</sup> ACLU, *ACLU V. BOP: Complaint*, October 21, 2020.



system, citing as an example negligent guidance to state and federal facilities on critical issues such as the use of masks and social distancing.<sup>1408</sup>

706. With regard to the **death penalty**, the Commission has continued to monitor its use in the United States over the years, noting that it is currently the only country in the Western Hemisphere that carries out executions of persons sentenced to death. In the middle of the year, the IACHR condemned the announcement published by the Department of Justice regarding the resumption of the application of the death penalty at the federal level by scheduling the execution of four people.<sup>1409</sup> In this regard, the IACHR notes with concern that by the end of 2020 a total of 17 executions had been carried out, ten of which were at the federal<sup>1410</sup> level. In this context, the IACHR reiterates its call for the elimination of this penalty or, failing that, the imposition of moratoriums on executions as a step towards its gradual abolition.

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<sup>1408</sup> ACLU, ACLU lawsuit seeks information on federal government's failed response to COVID-19 in jails and prisons. October 21, 2020.

<sup>1409</sup> IACHR, Press Release 149/20 - The IACHR condemns the resumption of the application of the death penalty at the federal level in the United States, after more than 17 years without carrying it out. Washington, D.C., June 26, 2020.

<sup>1410</sup> Death Penalty Information Center, Execution List 2020. December 11, 2020.

707. Regarding the rights of **lesbian, gay, bisexual, trans, gender diverse and intersex (LGBTI) persons**, the Commission learned of the decision of the Puerto Rico Council of Government to allow trans persons access to hormones and medications through the Vital Health Plan,<sup>1411</sup> as well as the announcement by the *Food and Drugs Administration (FDA)* that it would analyze the elimination of restrictions for gay, bisexual and pansexual men to donate blood and the decision to reduce to three months the waiting time since their last sexual contact.<sup>1412</sup> The IACHR also welcomes the decision of the Governor of New York to rename Brooklyn's East River State Park in honor of Marsha P. Johnson.<sup>1413</sup>

708. The Commission takes note of the election of more than one thousand LGBTI people to various elected offices throughout the United States, according to information received.<sup>1414</sup> Sarah McBride, the first openly trans person to hold a Senate seat in Delaware;<sup>1415</sup> Mauree Turner, the first openly non-binary person to be an Oklahoma state legislator;<sup>1416</sup> Mondaire Jones and Ritchie Torres, the first openly gay men of African descent to be elected as congressional representatives;<sup>1417</sup> and Jessica Benham, an autistic, openly bisexual woman elected as a district legislator in Pennsylvania.<sup>1418</sup>

709. Likewise, the Commission welcomes the recognition of access to marriage without discrimination in the Constitution of Nevada,<sup>1419</sup> non-discrimination based on sexual orientation and gender identity in public employment in Virginia,<sup>1420</sup> as well as non-discrimination against LGBTI persons in convictions for sex crimes and placing trans persons deprived of liberty in prisons based on their gender identity in California.<sup>1421</sup> Likewise, the IACHR welcomes the judicial decisions regarding the recognition of different rights for same-gender couples and their families,<sup>1422</sup> as well as those that

<sup>1411</sup> NotiCel, Transcommunity will be able to access hormones and medications with the Vital Plan, October 15, 2020.

<sup>1412</sup> U.S. Department of Health and Human Services, Revised Recommendations for Reducing the Risk of Human Immunodeficiency Virus Transmission by Blood and Blood Products; Guidance for Industry, April 2020; NBC News, FDA considers lifting restrictions on blood donations by gay and bi men, December 28, 2020.

<sup>1413</sup> Governor Andrew Cuomo, I'm proud to announce the dedication of East River State Park in Brooklyn to Marsha P Johnson, August 24, 2020; The Architect's Newspaper, Brooklyn's East River State Park renamed in honor of late LGBTQ activist and trans icon Marsha P. Johnson, August 25, 2020.

<sup>1414</sup> CNBC, Kamala Harris, Cori Bush and others who made history in the 2020 election, November 14, 2020.

<sup>1415</sup> Politico, Sarah McBride of Delaware becomes first transgender state senator in U.S. history, November 3, 2020.

<sup>1416</sup> LGBTQ Victory Fund, Mauree Turner to Become First Non-Binary State Legislator; Wins State House Seat in Oklahoma, November 4, 2020.

<sup>1417</sup> Queerty, Mondaire Jones and Ritchie Torres become first Black, openly-gay Congressmen, November 4, 2020.

<sup>1418</sup> ABC News, Openly bisexual, autistic candidate wins election for Pennsylvania House seat, November 12, 2020.

<sup>1419</sup> The Observer, Nevada is the first U.S. state to recognize gay marriage in its Constitution, November 17, 2020.

<sup>1420</sup> The Hill, VA Gov. Northam signs LGBT anti-discrimination act into law, November 4, 2020.

<sup>1421</sup> Los Angeles Times, Newsom signs SB 145 to amend sex crimes law, September 11, 2020; ABC News, California will house transgender inmates by gender identity, September 26, 2020.

<sup>1422</sup> NBC News, Gay spouses entitled to Social Security survivors benefits, court rules, May 29, 2020; NBC News, Court orders State Dept. to issue passport to gay couple's daughter, August 28, 2020; Los Angeles Blade, Federal judge: State Department must recognize U.S. citizenship of gay couple's daughter, August 31, 2020; The Times of Israel, US court rules son born abroad to gay Israeli-American couple is a citizen, October 10, 2020; Equality Case Files, SCOTUS denies cert, leaving in place #CA7 decision "requiring Indiana to recognize the children of these plaintiffs as legitimate children, born in wedlock, and to identify both wives in each union as parents", December 14, 2020.

protect the rights to gender identity and expression of trans<sup>1423</sup> persons and, in general, all decisions against any type of discrimination based on sexual orientation and gender identity and expression.<sup>1424</sup>The IACHR also notes progress with regard to the human rights of intersex persons, led by hospitals that have publicly apologized to intersex children for unnecessary surgical procedures performed in the past.<sup>1425</sup>

710. Regarding acts of discrimination and violence committed against LGBTI persons or persons perceived as such, the Commission notes that there are reports of at least 41 trans and gender-diverse persons who were murdered in the United States in 2020.<sup>1426</sup> In addition, the Commission has received with concern information regarding the difficulty that trans and gender-diverse people have had obtaining an appropriate identity document for voting,<sup>1427</sup> other discriminatory initiatives for trans and gender-diverse people,<sup>1428</sup> as well as various court rulings that do not recognize the principles of equality and non-discrimination on the basis of bodily diversity, sexual orientation, gender identity, or gender expression.<sup>1429</sup>

711. Finally, the Commission has received troubling information about so-called "conversion therapies" or efforts to "correct" the sexual orientation and gender identity of LGBTI persons or persons perceived as such in the Caribbean region, including Puerto Rico. These practices, which are generally carried out clandestinely, seriously violate human rights and cause mental, physical, or sexual harm.<sup>1430</sup>

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<sup>1423</sup> [Pink News, Idaho: Judge suspends law banning trans women from sports](#), August 18, 2020; [NBC News, U.S. appeals court sides with transgender student over bathroom access](#), August 26, 2020; [AP News, Court: Private locker room violated transgender boy's rights](#), September 28, 2020; [Trust, Court overturns Ohio ban on trans changes to birth certificates](#), December 16, 2020.

<sup>1424</sup> [IACHR, IACHR celebrates the Supreme Court's decision in Bostock v. Clayton County, holding that an employer who fires an individual merely for being gay or trans violates the prohibition of employment discrimination](#), June 15, 2020; [The 19th News, The Supreme Court ruled on a landmark LGBTQ rights case. The DOJ has yet to enforce it](#), August 4, 2020.

<sup>1425</sup> [CNN, Major children's hospital apologizes for performing cosmetic genital surgeries on intersex infants](#), July 29, 2020; [USA Today, Boston hospital's intersex surgery decision could be watershed moment](#), October 26, 2020.

<sup>1426</sup> [Metro, The five trans women murdered so far this year](#), Sept. 30, 2020; [Pedro Julio Serrano, Piden que no se descarta ángulo de odio en asesinato de Aguadilla](#), Nov. 17, 2020; [The Boston Globe, 2020's other epidemic: Violence against the trans community](#), Dec. 4, 2020; [KSAT, 'My people are dying': Transgender woman fears for her safety amid rise in trans homicides nationwide in 2020](#), Dec. 29, 2020.

<sup>1427</sup> [CBS News, Transgender and non-binary voters face barriers ahead of the 2020 election](#), October 21, 2020.

<sup>1428</sup> [IACHR, IACHR and REDESCA express concern over Department of Health and Human Services regulation that would eliminate anti-discrimination protections for trans people](#), June 14, 2020; [Pink News, Ben Carson says it's fine for homeless shelters to turn away trans women](#), March 10, 2020; [Vox, Campus, dorms closed for coronavirus, leaving some LGBTQ students with nowhere to go](#), March 18, 2020; [Politico, Trump team moves to scrap protections for LGBTQ patients](#), April 24, 2020; [CNN, Transgender teens in schools with bathroom restrictions at higher risk of sexual assault](#), May 6, 2020; [Advocate, Sen. KellyLoeffler Attacks Trans Youth in Desperate Election Bid](#), Sept. 23, 2020.

<sup>1429</sup> [Center for American Progress, Supreme Court Case Could Give Taxpayer-Funded Service Providers a Broad License To Discriminate Against LGBTQ People](#), November 20, 2020; [Gazette Net, Ruling scraps conversion therapy bans across Florida](#), November 28, 2020; [Local10, Ruling that overturns ban on controversial therapy for LGBTQ youth causing concern locally](#), December 9, 2020.

<sup>1430</sup> [IACHR, Hearing on the Situation of the Human Rights of LGBTI Persons in the Caribbean](#), Session No. 178, December 8, 2020; [OHCHR, "Conversion therapies" can amount to forms of torture and should be banned, says UN expert](#), July 13, 2020.

712. Regarding **women's** sexual and reproductive rights, the IACHR notes, according to publicly available information, the U.S. Supreme Court's rejection of a Louisiana state law that would restrict voluntary termination of pregnancy. The law established that health personnel in charge of these procedures should have a special affiliation, called "admitting privileges," in hospitals. In the opinion of the judges, this would result in a hardship for women seeking abortion.<sup>1431</sup>

713. The IACHR also takes note of a bill placing restrictions on the practice of abortion in the state of Utah. According to public sources, the legislature passed a measure that would make most abortion cases illegal if Roe v. Wade is overturned in the Supreme Court.<sup>1432</sup>

714. Likewise, the Commission observed the orders of the governments of Ohio and Texas that reportedly establish the suspension of "non-essential or non-urgent" abortions due to the COVID-19 pandemic, alleging the optimization of hospital spaces and supplies.<sup>1433</sup> In this regard, the United Nations Working Group on Discrimination against Women and Girls, through a public statement, pointed out that the United States authorities are using the COVID-19 pandemic crisis to restrict access to voluntary termination of pregnancy.<sup>1434</sup>

715. On gender-based violence in the context of the COVID-19 pandemic, the IACHR expresses concern about the increase in cases of domestic violence against women. Civil society organizations have shared reports on the increase in complaints to the police and requests for legal support from women due to acts of violence in the state of Georgia.<sup>1435</sup> The IACHR reminds the United States of its duty to guarantee women a life free from violence, and accordingly to redouble efforts to prevent and condemn all acts of discrimination and violence motivated by gender, as well as other factors that may deepen the situations of vulnerability to which women have been exposed, such as age, ethnicity, race, and immigration status.

716. With regard to the rights of **indigenous peoples**, the IACHR notes with concern, in the context of the COVID-19 pandemic, that they are at special risk, according to information from the CDC. They include, for example, Native Hawaiian or Pacific Islander, indigenous (American Indian and Alaska Native) people, who together with Afro-descendent and Hispanic or Latino social groups are reportedly at greater risk of contracting COVID-19, experiencing serious illness and even death, regardless of their age. In particular, as of December 11, American Indians and Alaska Natives reportedly had an infection rate approximately 3.5 times that of the non-Hispanic White population, and their death rate from COVID-19 was reportedly 1.8 times that of the non-Hispanic White population.<sup>1436</sup>

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<sup>1431</sup> [BBC News, U.S. abortion: Supreme Court rejects law restricting termination of pregnancy, dealing setback to Donald Trump](#), 29 June 2020

<sup>1432</sup> [The Hill, Utah passes new abortion regulations](#), March 13 2020

<sup>1433</sup> [El Espectador, U.S. states suspend abortions "in the name of fighting coronavirus,"](#) March 24, 2020.

<sup>1434</sup> [United Nations Human Rights Office of the High Commissioner, United States: Authorities manipulating COVID-19 crisis to restrict access to abortion](#), say UN experts, May 27, 2020.

<sup>1435</sup> [Human Rights Watch, Submission to the UN special rapporteur on violence against women, its causes and consequences regarding COVID-19 and the increase of domestic violence against women](#), July 3, 2020

<sup>1436</sup> [CDC, COVID-19 Mortality Among American Indian and Alaska Native Persons - 14 States, January-June 2020, Morbidity and Mortality Weekly Report](#), December 11, 2020.

717. With respect to the rights of the **elderly**, the Commission noted with concern the high prevalence of infections and deaths in nursing homes. In this regard, according to data from the Centers for Medicare and Medicaid Services (CMS), as of November 15, 2020 there were 331,904 confirmed cases of COVID-19, 164,944 suspected cases, and 69,872 deaths in nursing homes.<sup>1437</sup> In addition, according to CDC data, as of November 30, the percentages of infections by age range were 7.6% for persons between 65 and 74 years of age, 4.2% for persons between 75 and 84 years of age, and 2.7% for persons 85 years of age and<sup>1438</sup> older. However, persons aged 65 years and older account for 80.1% of total COVID-19 deaths in the United States.<sup>1439</sup> 20.8% correspond to persons between 65 and 74 years of age, 26.9% to persons between 75 and 84 years of age, and 32.4% to persons 85 years of age or older.<sup>1440</sup> In this regard, the IACHR urges the State to take urgent actions to prioritize the application of tests, as well as to identify and assess as soon as possible the situation of older persons with an aggravated risk of acquiring COVID-19 due to pre-existing health conditions.

## URUGUAY

- **General Considerations**

718. During 2020, with respect to **progress**, the IACHR notes the continuity of educational services during the COVID-19 pandemic through the delivery of computer equipment, as well as progress in terms of the rights of LGBTI persons, including measures to ensure the incorporation of trans persons in the labor market, as well as their access to reparation measures under the Comprehensive Law for Trans Persons. The IACHR also highlights the repeal of the ban on blood donation by men who have had sexual relations with other men.

719. Regarding **challenges**, the IACHR highlights, with regard to memory, truth, and justice, reports of lack of progress in the investigation of threats made by the so-called "Barneix Commando" against human rights defenders and justice operators in relation to cases dating back to the civil-military dictatorship, as well as the presentation of a bill before the Senate of the Republic, which would limit the prosecution and punishment of alleged perpetrators of serious human rights violations committed during the civil-military dictatorship.

720. The State did not submit a response to the request for information sent for the preparation of this chapter.

- **Specific topics**

721. The IACHR highlights the measures adopted to contain the spread of the COVID-19 virus. On March 14, the suspension of classes in public and private educational centers throughout the country was established as a preventive measure,<sup>1441</sup> with voluntary return to on-site school

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<sup>1437</sup> Centers for Medicare and Medicaid Centers, [COVID-19 Nursing Home Dataset](#), November 15, 2020.

<sup>1438</sup> Centers for Disease Control and Prevention, [Data & Statistics](#), November 30, 2020.

<sup>1439</sup> Centers for Disease Control and Prevention, [Data & Statistics](#), November 30, 2020.

<sup>1440</sup> Centers for Disease Control and Prevention, [Data & Statistics](#), November 30, 2020.

<sup>1441</sup> Presidency of Uruguay, "[Gobierno definió suspensión de clases en centros educativos públicos y privados de todo el país por próximos 14 días](#)", March 14, 2020.

scheduled to start in June.<sup>1442</sup> In mid-July, the Executive issued a decree establishing that nationals and foreigners wishing to enter the country must undergo a PCR-RT test and comply with mandatory seven-day preventive social isolation. In view of the increase of cases, on December 21, 2020, the closing of air, sea and land borders was decreed, and a law restricting the right of assembly, and fining those who disobey it, entered into force. The IACHR takes note of the creation by the Uruguayan government of a contingency plan and action protocol.<sup>1443</sup>

722. In terms of **democratic institutions**, the Commission highlights the strength and independence of Uruguay's democratic institutions. In addition, according to the Survey on Corruption in Latin America, Uruguay is reportedly one of the countries with the least corruption in the Latin American region.<sup>1444</sup>

723. On the other hand, the IACHR learned of the passing of the Law of Urgent Consideration, which contains, inter alia, reforms to public security, strategic intelligence, education, the economy, labor rights, public enterprises, and the right to demonstrate.<sup>1445</sup> The IACHR took note of complaints from civil society organizations, which expressed their concern about the impact of the reforms on human rights, including the extension of the maximum term of imprisonment for adolescents at odds with the law, from 5 to 10 years. In addition, the Commission stressed that the passing of the law during the period of measures to contain the pandemic could limit citizens' demonstration rights and the participation of experts in legislative discussions.

724. In this regard, in response to a request for information under Article 41 of the American Convention,<sup>1446</sup> the State reported that the legislative body had received information from specialized human rights institutions on the bill.<sup>1447</sup>

725. With regard to **human rights institutions**, Uruguay has a National Human Rights and Ombudsperson Institution (INDDHH) for the defense, promotion, and protection of human rights.<sup>1448</sup> The IACHR welcomes the creation of the Human Rights, Equality, and Non-Discrimination Observatory, an initiative of the National Directorate for Sociocultural Promotion (DNPSC) of the Ministry of Social Development (MIDES), which aims to generate an institutional framework that systematizes, analyzes, and generates information on the inequalities faced by Afro-descendants, migrants, and LGBTI people because of discrimination.<sup>1449</sup> Regarding the Institute for Children and Adolescents of Uruguay (INAU), the IACHR welcomes the signing of the cooperation agreement with the Inter-American Children's Institute (IIN-OAS) that will make it possible for officials and technicians of the institution to receive

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<sup>1442</sup> Presidency of Uruguay, "[Gobierno anunció retorno presencial y voluntario a clases a partir de junio](#)", May 21, 2020.

<sup>1443</sup> DW, "[Uruguay deploys troops and closes all its borders](#)", December 12, 2020; San Diego Union Tribune, "[Uruguay remains with closed borders and no vaccines for now](#)," January 6, 2021.

<sup>1444</sup> Montevideo, "[Uruguay remains the country with the lowest level of corruption in Latin America](#)", July 20, 2020.

<sup>1445</sup> Regulations and legal notices of Uruguay, [Law. 19889](#), July 9, 2020.

<sup>1446</sup> IACHR, Request for Information to the State of Uruguay, Note IACHR/SE/Art.41/6-2020/57, IACHR Archive, June 4, 2020.

<sup>1447</sup> Government of Uruguay, Diplomatic Note 71-2020, July 8, 2020.

<sup>1448</sup> Government of Uruguay, "Instituto Nacional de Derechos Humanos y Defensoría del Pueblo".

<sup>1449</sup> Ministry of Social Development, "[Information System on Human Rights, Equality, and Non-Discrimination](#)".

training in a number of areas.<sup>1450</sup> as the Commission also welcomes the decision by the Executive Branch to increase the institution's budget for the period 2020-2024.<sup>1451</sup>

726. In the area of **citizen security**, the IACHR received information on police operations carried out to enforce pandemic containment measures. Civil society organizations informed the Commission of their concern regarding the use of police force against people in public spaces in this context, particularly in the police intervention carried out on November 1, 2020 in the Liber Seregni Square in Montevideo.<sup>1452</sup> In this regard, the IACHR called on the State to adopt a human rights approach in its measures to contain the pandemic, guaranteeing the right to peaceful, unarmed assembly, freedom of expression, and dialogue, in observance of inter-American standards on the use of public force.<sup>1453</sup>

727. In response to this call, the State reported that the Police acted diligently, highlighting that none of the people present at the activities in the Liber Seregni Square were injured, while three National Police officers received injuries requiring treatment in medical institutions.<sup>1454</sup>

728. With regard to **memory, truth, and justice**, the Commission has expressed<sup>1455</sup> its concern over the presentation of a bill before the Senate of the Republic, which proposes limiting the prosecution and punishment of those allegedly responsible for serious human rights violations committed during the civil-military dictatorship.<sup>1456</sup> The Commission notes with extreme concern that the approval of this initiative would result in the reinstatement of the "Law of Expiry of the Punitive Claims of the State," as well as the application of the statute of limitations to the aforementioned crimes. In this regard, the Commission has reminded the Uruguayan State of its obligation to ensure that the Expiry Law does not impede or hinder the investigation and eventual punishment of those responsible for serious human rights violations and called on the State to refrain from approving the bill in question.<sup>1457</sup>

729. On the other hand, with regard to the prosecution of persons responsible for the crimes of that period, the IACHR takes note of the decision of the Supreme Court of Justice to ratify the 30-year prison sentence for five persons for the crime of especially aggravated homicide of María

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<sup>1450</sup> Instituto del niño y adolescente del Uruguay. "[New agreement for training of INAU officials.](#)" October 7, 2020.

<sup>1451</sup> Uruguayan Institute for Children and Adolescents. "[INAU will increase \\$600 million with respect to the current budget.](#)" September 16, 2020.

<sup>1452</sup> Montevideo, [Eleven arrested and two police with minor injuries in confrontation in Plaza Seregni](#), November 2, 2020; Portal Montevideo, [Pereira communicated with Larrañaga: "In Plaza Seregni we saw facts that were unconscionable"](#), November 3, 2020. La Diaria, [Organizaciones sociales denuncian "operativos represivos" de la Policía durante el fin de semana](#), November 2, 2020, CNN, ["La pandemia se transformó en fachada para justificar el atropello a nuestras libertades", dicen organizaciones en Uruguay. Police accuse them of provocateurs](#), November 8, 2020. 180, ["We do not understand that there is any need to diminish the use of public spaces."](#) November 6, 2020.

<sup>1453</sup> IACHR, [Tweet](#), November 3, 2020.

<sup>1454</sup> Government of Uruguay, Diplomatic Note Press Release 116-20.

<sup>1455</sup> IACHR, [Tweet](#), August 5, 2020.

<sup>1456</sup> Parliament of Uruguay, [Ficha Asunto 147369](#), 2020; El País, [Cámara de Senadores ya tiene el proyecto de Manini Ríos para reinstalar la ley de Caducidad](#), August 5, 2020;

<sup>1457</sup> I/A Court H.R., [Case of Gelmanv. Uruguay](#), February 24, 2011, par. 11.



Claudia García Iruretagoyena.<sup>1458</sup> The Commission also highlights the 25-year prison sentence of José Gavazzo as co-perpetrator for the especially aggravated homicide of Julio Castro.<sup>1459</sup>

730. The Commission also regrets that no progress has been made in the investigation of the threats made by the so-called "Barneix Commando" against human rights defenders and justice operators related to cases dating back to the civil-military dictatorship.<sup>1460</sup> According to public information, the crimes investigated would become subject to statute of limitations as of February 2021, which could lead to the case being closed. In the same vein, the Commission observes with concern other episodes of threats to victims of serious human rights violations and justice operators involved in proceedings of this nature and urges the State to investigate them.<sup>1461</sup> With regard to the search for missing persons, the IACHR received information that, in its first year as the entity assigned this task, the National Human Rights Institution and Ombudspersons Office resumed excavations on the grounds of the 14th Parachute Infantry Battalion No. 14 in Toledo, Canelones.<sup>1462</sup> However, the IACHR is concerned about the insufficient budget allocated by the institution to carry out these tasks.<sup>1463</sup>

731. With respect to the rights of **children and adolescents**, the IACHR commends the initiatives adopted by the State to guarantee the continuity of educational services during the COVID-19 pandemic. In particular, the IACHR notes that 100,000 computers and *tablets* were delivered and that the coverage of the national distance learning platform was 85% of students in primary school and 90% in secondary school.<sup>1464</sup> On the other hand, the IACHR received with concern the data published in a UNICEF report that indicate persistent inequality disproportionately affecting Afro-descendant children and adolescents. According to figures for 2016-2018, the incidence of poverty among children and adolescents of African descent is almost 30%, compared to 15% among non-Afro-descendant children and adolescents.<sup>1465</sup> The report also notes that children and adolescents of African descent have less access to education: the average number of years of education for them is 7.6, compared to 9.5 among children and adolescents who are not of African descent.<sup>1466</sup>

732. In relation to the **rights of persons in human mobility**, the Commission noted the implementation of measures to allow the return of Uruguayan persons to the country after the closure of borders decreed by the COVID-19 pandemic. In this regard, the Office of the United Nations High

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<sup>1458</sup> El Observador, [Gavazzo, Silveira, Arab, Medina and Vázquez convicted for the murder of María Claudia García de Gelman](#), September 5, 2020.

<sup>1459</sup> Bohemia, [Condena justicia uruguaya al repressor de la dictadura José Nino Gavazzo](#), April 23, 2020.

<sup>1460</sup> La Diaria, [Victims of the Barneix Commando threat lament lack of progress in the investigation and warn of imminent closure of the case](#), January 23, 2021.

<sup>1461</sup> El Observador, [Se suicidó policía imputado por torturas y comunistas denunciaron amenazas](#), October 25, 2020; Radio Uruguay, [Perciballe: "Hace un año fui amenazado"](#), February 18, 2020.

<sup>1462</sup> La Red 21, [Excavations resume in search of remains of detainees who disappeared during the dictatorship](#), May 11, 2020.

<sup>1463</sup> M24, [Human Rights Institution warns that the budget to continue the search for missing persons is insufficient](#), May 22, 2020.

<sup>1464</sup> Infobae, [El exitoso caso de Uruguay: cómo logró sostener la educación con las escuelas cerradas](#), July 19, 2020.

<sup>1465</sup> UNICEF, [Panorama de la situación de los niños, niñas y adolescentes afrodescendientes en Uruguay](#), September 2020, p. 26.

<sup>1466</sup> UNICEF, [Panorama de la situación de los niños, niñas y adolescentes afrodescendientes en Uruguay](#), September 2020, p. 28.

Commissioner for Human Rights (OHCHR) highlighted Uruguay's work in the "Todos en Casa" operation, which supported the return of 2,000 Uruguayan nationals.<sup>1467</sup>

733. With respect to **human trafficking**, the Commission notes that UNICEF and civil society organizations have launched the "No Excuses" campaign, which seeks to draw attention to and denounce the crime of commercial sexual exploitation of children and adolescents in the country and to raise condemnation of it among society in general.<sup>1468</sup>

734. Regarding the rights of **indigenous peoples**, the Commission heard from members of the Charrúa nation, who denounced the lack of state recognition and lack of public policies, particularly during the pandemic, which has impaired their economic, social, cultural, and environmental rights (ESCER). In addition, Charrúa representatives denounced the lack of participation in the processes leading up to the passing of the "emergency considerations" law (LUC).<sup>1469</sup>

735. On the rights of **lesbian, gay, bisexual, trans, gender-diverse, and intersex (LGBTI)** persons, the Commission welcomes the decision to repeal the ban on blood donations by men who have had sexual relations with other men.<sup>1470</sup> The IACHR also welcomes the creation of the Specialized Unit on Domestic and Gender Violence,<sup>1471</sup> as well as the presentation of the protocol to accompany the transition of trans persons at work by the Municipality of Montevideo.<sup>1472</sup> The Commission notes that more than 90 trans persons have accessed the reparations established by the comprehensive law for trans<sup>1473</sup> persons. These reparation measures are provided for trans persons born before December 31, 1975 who, for reasons related to their gender identity, were victims of institutional violence or deprived of their liberty, having suffered moral or physical harm, as well as having been prevented from fully exercising their rights to freedom of movement, access to work and study, due to discriminatory practices committed by State agents or by those who, without being agents of the State, had the authorization, support, or acquiescence of the same.

736. Regarding the protection of **women's rights**, the IACHR highlights the inauguration of a Specialized Unit on Domestic and Gender Violence.<sup>1474</sup> The Commission took note of the concerns expressed by civil society organizations about the effects of the pandemic and containment measures on women's rights, particularly the possible increase in domestic violence. In this regard, the IACHR

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<sup>1467</sup> La diaria, [UN recognized Uruguay for operation "Todos en Casa"](#), April 21, 2020.

<sup>1468</sup> UNICEF, [I Didn't Know I Was a Child: No Excuses](#), July 8, 2020

<sup>1469</sup> IACHR, Social Forum held with civil society organizations in Uruguay, July 1, 2020.

<sup>1470</sup> IACHR, [IACHR welcomes Executive Branch decision to amend the Transfusion Medicine Regulations, repealing the ban on blood donation by men who have had sex with men](#), December 18, 2020; El País, [Gobierno revoca prohibición y autoriza que hombres homosexuales puedan donar sangre](#), December 16, 2020.

<sup>1471</sup> Portal Montevideo, [Min. of Interior inaugurated a Specialized Unit on Domestic and Gender Violence](#), September 23, 2020.

<sup>1472</sup> La Diaria, [The IM presented a protocol to accompany the transition of transpeople at work](#), September 30, 2020.

<sup>1473</sup> The Observer, [Historical reparations: 91 transpeople accessed reparations since June 2019](#), 31 August 2020.

<sup>1474</sup> Montevideo Portal, [Min. of the Interior inaugurated a Specialized Unit on Domestic and Gender Violence](#), September 23, 2020.

takes note of the dissemination of "Measures to prevent gender-based violence" in the context of the quarantine.<sup>1475</sup>

737. Regarding the rights of **persons with disabilities**, the IACHR takes note of the call by the National Human Rights Institution and the Ombudsperson's Office to the national authorities to advance and deepen the provisions of Law 19,529 on Mental Health, particularly with regard to the progressive closure of asylums and monocentral structures established in Articles 37 and 38 of the Law.

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<sup>1475</sup> Government of Uruguay, [Measures to prevent gender-based violence in the context of isolation](#), March 31, 2020.



