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## **Human rights situation in Guatemala**

2025

## Inter-American Commission on Human Rights

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*Per Article 172 of the IACtHR Rules of Procedure,  
Commissioner **Stuardo Ralón Orellana**, of  
Guatemalan nationality, did not participate in the  
discussion, investigation, deliberation, and approval  
of this report.*

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*Commissioner **Carlos Bernal Pulido** issued a  
partially dissenting reasoned opinion regarding  
some sections of Chapter VII concerning the impact  
on particular groups contained in the report, which  
was joined by Commissioner **Gloria Monique de  
Mees**. Per Article 19.2 of the IACtHR Rules of  
Procedure, these opinions are included at the end  
of this document.*

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## EXECUTIVE SUMMARY

1. This report by the Inter-American Commission on Human Rights (hereinafter “Commission,” “Inter-American Commission,” or “IACHR”) analyzes the human rights situation in Guatemala based on the on-site visit that took place from July 22 to 26, 2024.
2. Almost three decades after the signing of the Peace Accords, Guatemala continues to face structural challenges in consolidating a democratic State and guaranteeing the full enjoyment of human rights by its population. Many of the historical conditions that gave rise to the internal armed conflict persist. Democratic institutions and the system of checks and balances have been progressively weakened since the last on-site visit in 2017, as a result of the control of certain institutions by members of the previous Government’s Executive, certain members of the Congress, and other political and economic power groups, aimed at perpetuating impunity.
3. During its visit to the country, the IACHR verified firsthand the crisis facing the justice system in Guatemala, resulting from a series of systematic interferences aimed at undermining judicial independence. In particular, the IACHR identified the expulsion of the International Commission against Impunity in Guatemala (CICIG) as one of the factors that deepened the deterioration of the rule of law in the country, and from that moment on, a series of actions and decisions that reversed the progress made in the fight against impunity and corruption. In 2023, the manipulation of the justice system to interfere in the general elections highlighted the magnitude of this institutional crisis, triggering one of the most tense episodes in the country's recent democratic history.
4. The IACHR identified patterns that demonstrate the instrumentalization of the justice system to criminalize justice operators, journalists, human rights defenders, and indigenous, social, and political leaders. It also found that criminalization is a widespread practice in the country, made possible by the coordination of the Public Prosecutor's Office, some sectors of the judiciary, and other actors

# **EXECUTIVE SUMMARY**

who manipulate the judicial system with the aim of perpetuating impunity and corruption.

5. Irregularities were also noted in the selection and appointment processes for senior judicial authorities, the concentration of administrative functions in the Supreme Court of Justice for the judicial career, and the lack of guarantees of independence for the Constitutional Court, evidenced by decisions that have been widely questioned for favoring particular interests.
6. The IACHR observed a scenario of connivance between the Legislative and Judicial branches, aimed at restricting the authority of the Executive Branch and preserving the status quo. This situation is reflected in the Congress of the Republic, where certain groups are reluctant to break with the pact of impunity and move forward with a political agenda based on democratic principles and respect for human rights.
7. In terms of transitional justice, the situation of impunity for serious human rights violations continues to be a structural challenge in Guatemala. The information received by the IACHR confirms the severe setback in cases currently being processed. At the same time, the dismantling of the institutions created by the Peace Accords has compromised the State's ability to respond to the demands of victims and fulfill its international commitments regarding truth, justice, reparation, and guarantees of non-repetition.
8. Guatemala continues to face significant challenges in combating poverty and inequality, as well as in guaranteeing the full exercise of DESCA rights. These include the concentration of economic power, a weak state structure with limited tax collection capacity, high levels of corruption, and a context of discrimination, violence, racism, and exclusion of indigenous peoples and Afro-descendant and rural communities. In this regard, the IACHR documented severe restrictions on access to essential rights such as water and sanitation, health, education, food, work, social security, and the right to a healthy environment.

9. The IACHR noted that indigenous peoples live in less favorable conditions than the rest of the population, with limited access to basic services, electricity, sanitation, decent housing, employment and productive opportunities, and obstacles to access to justice. This situation reflects the persistence of exclusionary economic, cultural, and social relations that gave rise to the internal armed conflict. It is further aggravated by the impact of natural disasters and climate change, the perpetuation of poverty, high rates of migration, and the dispossession of land and natural resources. Furthermore, the Commission recorded patterns of collusion between the Public Ministry and the Judiciary in facilitating forced evictions and the appropriation of ancestral territories by private companies and landowners, in a context of legal uncertainty regarding land tenure and the absence of free, prior, and informed consultation.
10. On this occasion, the IACHR made its first visit to the Garifuna community in Livingston. There, it observed systemic exclusion and discrimination against people of African descent. This community reported that the collection of official data does not respond to criteria of ethnic-racial self-identification, but rather to geographic location, which renders Garifuna and Creole people residing outside the department of Izabal invisible. It also reported on the lack of Afro-descendant representation in decision-making spaces, attributed to the absence of affirmative action to guarantee political participation quotas at all levels of government. Furthermore, community participation spaces are established in locations that are inaccessible to Garifuna communities, making it difficult for them to participate effectively.
11. On the other hand, the IACHR recognized a positive change in the narrative of some State authorities toward greater recognition of the work of human rights defenders. However, it warned that the defense of human rights continues to be a high-risk activity in the country. The information shows that historically documented patterns continue, such as ongoing acts of violence and the abuse of criminal law as a mechanism for harassment, intimidation, and obstruction of

their work. In addition, the policy for the protection of defenders remains unimplemented.

12. With regard to children and adolescents, the Commission noted the persistence of structural factors that prevent the full exercise of their rights. The IACHR heard that violence against women, girls, and adolescents remains at alarming levels, that it is the most prevalent form of violence in Guatemala, and that it is characterized by high levels of impunity. It also identified the challenges that exist in strengthening and implementing the regulatory, institutional, and public policy framework dedicated to protecting and guaranteeing women's rights, which result in the perpetuation of violence and impunity.
13. The IACHR confirmed that people with diverse sexual orientations, gender identities, and expressions face acts of violence and discrimination motivated by deeply rooted prejudices. This violence is exacerbated by the absence of regulatory frameworks and public policies that guarantee equality and effective protection of the rights of lesbian, gay, bisexual, transgender, non-binary, gender-diverse, and intersex (LGBTI) persons. With regard to the rights of persons with disabilities, although some regulatory advances were reported, the IACHR notes that most of them continue to be based on the medical model of disability rehabilitation. The Commission also received testimony from older persons about the differentiated impact on the rights of this group due to violence, evictions, and displacement, including cases of criminalization of older persons who defend land and territory.
14. Guatemala is a country of origin, transit, destination, and return for migrants. Among other facts, during the visit, the Commission received troubling information about disappearances along the migration route, difficulties in searching for and identifying missing persons, and obstacles to accessing justice, as well as other forms of violence and corruption. The IACHR was also informed of the difficulties people face in accessing international protection procedures. Among other things, the high cost and number of

requirements necessary to obtain residency are some of the main difficulties in regularizing their migration status or requesting protection in the country.

15. The situation of persons deprived of liberty in Guatemala is a cause for great concern. During its visits to prisons in Guatemala City and Cobán, the IACHR observed deplorable detention conditions with high levels of overcrowding. This has a differentiated impact on women and children living with their mothers in prison, persons with disabilities, and other groups, a situation that is aggravated by a criminal justice approach that prioritizes incarceration.
16. The IACHR thanks the President of the Republic, Bernardo Arévalo, for his consent to visit the country, as well as for all the logistical facilities provided and the information shared. It also recognizes the willingness expressed by the head of the executive branch to make human rights a priority of his term in office. The IACHR believes that the transition of government represented not only the triumph of the will of the people expressed at the polls, but also a historic opportunity to restore democratic principles and judicial independence in Guatemala. To achieve this, it is essential to strengthen access to justice and the fight against corruption and impunity, including through international cooperation and assistance.
17. The IACHR formulates a set of recommendations to the State and, in particular, reiterates the urgent need to move forward with structural reforms of the justice system to ensure judicial independence, establish selection and appointment processes in accordance with international standards of merit, objectivity, and transparency, and create mechanisms for accountability regarding the arbitrary use of criminal law and widespread criminalization.
18. The IACHR reiterates its commitment to accompany the State of Guatemala in restoring democratic institutions based on the protection and guarantee of human rights, the fight against impunity, as well as historical memory, comprehensive reparation for victims, and compliance with the commitments of the Peace Accords.

## INTRODUCTION

### A. Background and purpose

19. The purpose of this report is to analyze the structural challenges that continue to affect the enjoyment of human rights in Guatemala. In particular, it focuses on those challenges linked to the weakening of democratic institutions and judicial independence in the country since the last visit by the IACtHR in 2017.
20. Similarly, the Commission reviews the setbacks in the fight against corruption; the human rights situation of groups facing historical exclusion and discrimination, from an ethnic, racial, and gender perspective; the situation of freedom of expression; citizen security; the rights to memory, truth, justice, and reparation in the face of serious human rights violations; as well as the situation of economic, social, cultural, and environmental rights in Guatemala.
21. The Commission has closely monitored the human rights situation in Guatemala, particularly the State's response to the serious human rights violations perpetrated during the country's internal armed conflict. In total, since 1982, the Commission has made twelve on-site visits to Guatemala, making it the country most visited by the IACtHR.<sup>1</sup> In addition, it has published eight special reports<sup>2</sup>, 16 follow-up reports on the general situation in the country<sup>3</sup>, and three reports on the follow-up to recommendations.<sup>4</sup>

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<sup>1</sup> IACtHR, [Situation of Human Rights in Guatemala](#), OEA/Ser.L/V/II. Doc. 208/17, December 31, 2017, para. 19.

<sup>2</sup> In 1981, 1983, 1985, 1993, 1996, 2001, 2003, and 2015.

<sup>3</sup> Corresponding to each year from 1983 to 1991, and to 1993, 1994, 1996, 1997, 2002, 2004, and 2016.

<sup>4</sup> Corresponding to Chapter V of the Annual Report for the years 2018, 2019, and 2020.

# INTRODUCTION

22. On December 17, 2023, the outgoing Guatemalan government extended "an invitation to the IACtHR to conduct an on-site visit in July 2024".<sup>5</sup> On January 31, 2024, the IACtHR conveyed its interest to the new government in finalizing the on-site visit during 2024.<sup>6</sup> On March 20, 2024, Guatemala reaffirmed the approval of the President of the Republic, Bernardo Arévalo de León, for the IACtHR visit.<sup>7</sup>
23. The IACtHR carried out the on-site visit from July 22 to 26, 2024. The delegation was composed of IACtHR President Roberta Clarke; First Vice President Carlos Bernal; Second Vice President José Luis Caballero; Commissioner Arif Bulkan; and Commissioners Andrea Pochak, Rapporteur for Guatemala, and Gloria de Mees. The delegation also included Executive Secretary Tania Reneaum; Deputy Executive Secretary María Claudia Pulido; Chief of Staff Patricia Colchero; and specialists from the Executive Secretariat. Also participating were Special Rapporteurs for Freedom of Expression, Pedro Vaca, and for Economic, Social, Cultural, and Environmental Rights, Javier Palummo.<sup>8</sup>
24. The IACtHR reiterates its gratitude to the President of the Republic, Bernardo Arévalo, for his consent to visit the country, as well as for all the logistical facilities provided. At the same time, the IACtHR acknowledges the information provided by the authorities of the various public powers for the preparation, during the visit and after the visit, which contributed to the drafting of this report.

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<sup>5</sup> Note from the Permanent Mission of Guatemala to the Organization of American States (OAS), OAS-M4-NV-395-2023, December 17, 2023; following Guatemala's inclusion in Chapter IV.B of the IACtHR Annual Report in 2021, the Commission requested on several occasions the State's consent to visit the country, without receiving a positive response until 2023.

<sup>6</sup> IACtHR, Note 152-24IACtHR/SE/MPCT-VIL sent on January 31, 2024.

<sup>7</sup> Note from the Permanent Mission of Guatemala to the Organization of American States (OAS), OAS-M4-NV-067-2024, March 20, 2024.

<sup>8</sup> In accordance with Article 17.2 of the Internal Regulations of the Inter-American Commission on Human Rights, Commissioner Stuardo Ralón, a Guatemalan national, did not participate in matters related to the discussion, investigation, deliberation, and approval of the visit and this report.

25. Similarly, it thanks civil society organizations and human rights defenders for the information they provided, the victims who came forward to give their testimonies, and the indigenous and Afro-descendant peoples who accompanied the delegation during its visit.

## **B. Methodology and structure**

26. In preparing this report, the Commission used information on the human rights situation in Guatemala obtained from reliable, convincing, and verifiable sources, in accordance with Article 59.5 of the IACtHR Rules of Procedure.
27. The primary sources used were information gathered by the IACtHR's various mechanisms, such as on-site visits, the petition and case system, precautionary and provisional measures granted in the inter-American system, monitoring of compliance with IACtHR recommendations and judgments of the Inter-American Court of Human Rights (IACtHR Court), public hearings, working meetings, requests for information, and working visits.
28. With regard to secondary sources of information, the IACtHR took into consideration official public information obtained from state sources, including official acts and statements by state authorities; conclusions of other international human rights bodies; relevant legal and academic research; press articles and information; and reports provided by civil society organizations.
29. The on-site visit was one of the main methods used to gather information. Between July 22 and 26, 2024, the IACtHR was in Guatemala City and divided into eight groups to travel to the departments of Alta Verapaz, Izabal, Petén, San Marcos, Sololá, Totonicapán, and Quetzaltenango, where it held meetings with representatives of indigenous communities and ancestral authorities in their territories, with peasant and Afro-descendant communities, as well as with civil society organizations.

30. For the first time in its history, the IACtHR visited the Garifuna people in Livingston, who are at risk of cultural extinction. It also visited the Chinautla River in Santa Cruz, which is part of the Motagua River basin, where it noted a serious pollution problem with profound impacts on biodiversity, the environment, and the human rights of the communities that depend on it for their subsistence, including the Poqomam Maya people.
31. The Commission visited without restrictions the women's pretrial detention center in Zone 18, "Santa Teresa"; the men's pretrial detention center in Zone 18; the men's and women's pretrial detention center in Cobán; and the Mariscal Zavala detention center, where it interviewed journalist José Rubén Zamora and former prosecutor Stuardo Campo. It also visited residences for children and adolescents in need of protection. It also visited the reception centers for returnees located in Tecún Umán and Guatemala City. The IACtHR observed the cross-border dynamics of human mobility in the region, particularly at the Rodolfo Robles Bridge and the Suchiate River, and interviewed migrants.
32. In total, the IACtHR held 31 meetings with representatives of the different branches of government and held more than 48 group meetings with human rights defenders and justice operators, activists, civil society organizations, and victims of human rights violations, as well as representatives of academia, trade unions, business associations, diplomatic missions, and United Nations agencies. On July 26, 2024, the IACtHR held a press conference at the end of the on-site visit to present its main findings.<sup>9</sup> On August 30, 2024, it published its preliminary observations and initial recommendations to the State of Guatemala.<sup>10</sup>

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<sup>9</sup> IACtHR, [Message from the press conference on the on-site visit to Guatemala](#), Guatemala City, Guatemala, July 26, 2024.

<sup>10</sup> IACtHR, [Preliminary Observations on the On-Site Visit to Guatemala](#), OEA/Ser.L/VII. Doc. 124/24, approved on August 15, 2024, para. 23

33. After a preliminary analysis of the information gathered during the on-site visit, on January 3, 2025, the IACHR requested additional information from the State on some of the issues addressed during the visit, based on Article 41 of the American Convention on Human Rights. On February 18, 2025, the State of Guatemala forwarded the information provided by the Congress of the Republic, the Judiciary, and the Public Prosecutor's Office<sup>11</sup>; it also requested an extension, which was granted by the IACHR. On March 12, 2025, the State completed the information requested by the IACHR.<sup>12</sup>
34. This report uses a mixed socio-legal methodology that integrates legal analysis with social science tools to examine the structural factors that affect human rights. Using an inductive approach, the study combines qualitative and quantitative data, such as interviews, case studies, and statistics, to identify patterns and formulate general conclusions. It also incorporates cross-cutting approaches to gender, ethnic and racial origin, and structural inequalities.
35. It should be clarified that through this report, the IACHR does not affect the principle of subsidiarity of the Inter-American System, which is inherent to the petitions and cases mechanism, and recognizes that national authorities bear the primary duty to investigate, sanction, and, when appropriate, provide reparation for human rights violations that may be identified in specific cases. On the contrary, through its monitoring tools—such as the on-site visit and this country report—the IACHR makes a general observation on the patterns identified and

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<sup>11</sup> Note from the Permanent Mission of Guatemala to the Organization of American States (OAS), OAS-M4-NV-026-2025, February 18, 2025.

<sup>12</sup> Note from the Permanent Mission of Guatemala to the Organization of American States (OAS), OAS-M4-NV-052-2025, March 12, 2025.

issues recommendations aimed at strengthening institutional frameworks and the rule of law in Guatemala.<sup>13</sup>

### **C. Approval process**

36. The Commission approved the draft report on September 24, 2025 and notified the State on September 30 of the same year, in accordance with Article 60 of its Rules of Procedure.<sup>14</sup> Subsequently, the State submitted its observations on October 21, 2025<sup>15</sup>, and the final version was approved by the IACtHR on November 2, 2025.

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<sup>13</sup> The adoption of a thematic report or a country report does not constitute a prejudgment of potential contentious cases. The adoption of a country report, even when referring to individual cases, does not entail a pronouncement on petitions, since the latter, as applicable, “shall follow the corresponding regulatory procedure, which, if not yet completed, will conclude with a decision or resolution on the merits of the matter that has been the subject of the complaint.” In general, references to individual cases or complaints in a country or thematic report serve to illustrate standards and support the interpretative dimension that clarifies the content of rights. For the same reason, there is no *lis pendens* or duplication between these two types of matters. Cf. IACtHR, Report on the Situation of Human Rights in Argentina, OEA/Ser.L/V/II.49 doc.19, April 11, 1980, Introduction; IACtHR, Report on the Situation of Human Rights in Guatemala, October 13, 1981, Method Used, paras. 1-3; IACtHR, Report on the Situation of Human Rights in Panama, November 9, 1989, Introduction; Digest of Admissibility and Jurisdiction Decisions of the IACtHR, OEA/Ser.L/V/II.175 Doc. 20, March 4, 2020, paras. 90-91.

<sup>14</sup> IACtHR, [Rules of Procedure of the Inter-American Commission on Human Rights](#), August 1, 2013.

<sup>15</sup> Comisión Presidencial por la Paz y los Derechos Humanos (COPADEH), Informe DIDEH-DEPCADEH-106-2025/LFAZ/ac, 14 de octubre de 2025, “Observaciones de la Comisión Presidencial por la Paz y los Derechos Humanos al ‘Informe Situación de los Derechos Humanos en Guatemala’ de la Comisión Interamericana de Derechos Humanos”, remitido por el Gobierno de la República de Guatemala, Ministerio de Relaciones Exteriores, mediante Nota Verbal OEA-M4-NV-27-2025, 21 de octubre de 2025.

## CONTEXT AND REFERENCE FRAMEWORK

37. Guatemala, whose name comes from the Nahuatl Quauhtlemallan, meaning "place of many trees"<sup>16</sup>, is a country with a population of approximately 18 million people, of whom 43.4% identify as indigenous. It is a society characterized by its multi-ethnic, multicultural, and multilingual composition. The Political Constitution of the Republic of Guatemala recognizes that the country is composed of "diverse ethnic groups, including indigenous groups of Mayan descent"<sup>17</sup>
38. The Constitution establishes that "sovereignty resides with the people, who delegate its exercise to the legislative, executive, and judicial branches. Subordination between these branches is prohibited".<sup>18</sup> Article 46 recognizes as a general principle that "in matters of human rights, treaties and conventions accepted and ratified by Guatemala take precedence over domestic law".<sup>19</sup>
39. Guatemala's history has been marked by periods of war, domination, vassalage, and military dictatorships.<sup>20</sup> In 1945, for the first time, a president was elected democratically: Juan José Arévalo, who was succeeded in 1951, also democratically, by Jacobo Árbenz. Both promoted profound reforms in education and agriculture. However, Árbenz was overthrown and forced to resign on June 27, 1954.<sup>21</sup> That same day, a military junta was formed, followed by successive triumvirates. On July 7, 1954, Carlos Castillo Armas took office as

<sup>16</sup> IACHR, [Situation of Human Rights in Guatemala: Diversity, Inequality, and Exclusion](#), OEA/Ser.L/V/II.Doc.43/15, December 31, 2015, para. 28.

<sup>17</sup> Political Constitution of the Republic of Guatemala, Article 66.

<sup>18</sup> Political Constitution of the Republic of Guatemala, Article 141.

<sup>19</sup> Political Constitution of the Republic of Guatemala, Article 46.

<sup>20</sup> Commission for Historical Clarification, Guatemala: Memory of Silence. Volume I, Causes and Origins of the Internal Armed Conflict, pp. 105-113.

<sup>21</sup> Commission for Historical Clarification, Guatemala: Memory of Silence. Volume I, Causes and Origins of the Internal Armed Conflict, pp. 105-113.

# CONTEXT AND REFERENCE

head of a new military junta.<sup>22</sup> In the following years, the country underwent a series of coups d'état, as well as a prolonged internal armed conflict that lasted from 1960 onwards. Beginning in 1986, a transition process began with governments elected by popular vote, culminating in the signing of the Peace Accords in 1996.<sup>23</sup>

40. Almost three decades after the signing of these agreements, many of the historical conditions that gave rise to the internal armed conflict persist. Guatemala continues to face structural challenges in consolidating a democratic state and guaranteeing the full enjoyment of human rights for its population.
41. The on-site visit carried out in 2024 corroborates observations made since 2017 regarding the progressive undermining of democratic institutions and the system of checks and balances, as well as serious setbacks in the fight against impunity and corruption. The widely documented attempts by the justice system to interfere in the 2023 elections highlighted the depth of the institutional crisis, triggering one of the most tense episodes in its democratic history. These actions remain latent at the time of approval of this report. As analyzed, Guatemala faces the enormous challenge of rebuilding and consolidating democratic institutions.

#### **A. The legacy of the internal armed conflict**

42. The IACtHR has closely monitored the human rights situation in Guatemala since its early years of operation, particularly in response to the serious human rights violations perpetrated during the internal armed conflict that took place between 1960 and 1996. This conflict was characterized by systematic executions, massacres, forced disappearances, and scorched earth operations aimed at the elimination, at least in part, of the Maya people. Sexual violence was

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<sup>22</sup> Commission for Historical Clarification, Guatemala: Memory of Silence. Volume I, Causes and Origins of the Internal Armed Conflict, pp. 105-113.

<sup>23</sup> Commission for Historical Clarification, Guatemala: Memory of Silence. Volume I, Causes and Origins of the Internal Armed Conflict, pp. 105-113.

also a widespread, massive, and systematic practice used by the State as part of its counterinsurgency policy against women.<sup>24</sup>

43. As established by the Commission for Historical Clarification (CEH) in its report "Guatemala, Memory of Silence," the internal armed conflict in Guatemala was a phenomenon with multiple causes, resulting from the convergence of a series of factors, such as structural impunity, the closure of political spaces, racism, the deepening of exclusionary and anti-democratic institutions, and the reluctance to promote substantive reforms that could have reduced structural conflicts.<sup>25</sup> The CEH concluded that Guatemalan history, especially during the armed conflict, shows that "violence was directed primarily by the State against the excluded, the poor, and, above all, the Mayan population, as well as against those who fought for justice and greater social equality".<sup>26</sup>
44. In 1996, the signing of the Agreement on a Firm and Lasting Peace between the government of then-President Álvaro Arzú and the Guatemalan National Revolutionary Unity (URNG) ended 36 years of civil war. This agreement, together with others signed as part of the peace process, represented a historic opportunity for a profound transformation of Guatemala.<sup>27</sup> However, almost 30 years after its signing, the commitments made by the State have not been fully fulfilled. On the contrary, the IACtHR has observed severe setbacks that leave victims and their families in a situation of abandonment and lack of protection from the State apparatus. At the same time, many of the causes that gave rise to the internal armed conflict remain, such as the concentration of economic power, a weak state

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<sup>24</sup> IACtHR, [Situation of Human Rights in Guatemala](#), OEA/Ser.L/V/II. Doc. 208/17, December 31, 2017, para. 33.

<sup>25</sup> IACtHR, [Situation of Human Rights in Guatemala](#), OEA/Ser.L/V/II. Doc. 208/17, December 31, 2017, para. 35.

<sup>26</sup> Cf. CEH, Guatemala, Memory and Silence. Conclusions and Recommendations.

<sup>27</sup> IACtHR, [Human Rights Situation in Guatemala](#), OEA/Ser.L/V/II. Doc. 208/17, December 31, 2017, para. 33.

structure with limited tax collection capacity, high levels of corruption and impunity, and a context of discrimination, violence, racism, and exclusion of indigenous peoples.

45. Furthermore, during its on-site visit, the IACtHR was informed of the persistence of parallel networks of power—political, economic, and military—that act to guarantee impunity for past crimes and maintain privileges. These networks have undermined institutional efforts to combat corruption, contributing to the progressive co-optation of the justice system and, consequently, the weakening of the rule of law.

## **B. Setbacks in the fight against impunity and corruption**

46. In Guatemala, corruption is one of the main obstacles to democratic stability and the realization of the basic economic, social, and cultural rights of the population. This phenomenon is structural and manifests itself at all levels and in all territories of the country.<sup>28</sup> Together with prolonged impunity, corruption has favored the co-optation of state institutions by illicit political-economic networks—made up of public officials, businesspeople, and criminal groups—that have used the state apparatus for private interests, to the detriment of the rule of law.<sup>29</sup>
47. According to the 2024 Rule of Law Index, compiled by the World Justice Project, Guatemala ranks 107th out of 142 countries worldwide and 25th out of 32 countries in the Latin American and

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<sup>28</sup> See CICIG, [Guatemala: A Captured State](#), August 27, 2019 [Civil Service in Guatemala: The Need for a Stable State Bureaucracy](#), August 7, 2019; also Dialogues, [An Approach to Systemic Corruption in Guatemala](#), Guatemala City, 2024; Crisis Group, ["Guatemala's New Government Resists Undermining the Transition,"](#) January 30, 2024.

<sup>29</sup> See CICIG, [Guatemala: A Captured State](#), August 27, 2019, and [Civil Service in Guatemala: The Need for a Stable State Bureaucracy](#), August 7, 2019; see also IACtHR, [Annual Report 2023, Chapter IV.B, Guatemala](#), OEA/Ser.L/V/II. Doc. 386 rev. 1, December 31, 2023, Conclusions; IACtHR, [Annual Report 2022, Chapter IV.B, Guatemala](#), OEA/Ser.L/V/II. Doc. 50 rev. 1, April 1, 2023, para. 11; IACtHR, [Annual Report 2021, Chapter IV.B Guatemala](#), OEA/Ser.L/V/II. Doc. 64 rev. 1, May 26, 2022, para. 21.

Caribbean region.<sup>30</sup> Among the areas with the worst ratings for the state are the presence of corruption in different instances, including civil and criminal justice. For its part, the Corruption Perceptions Index (CPI) published by Transparency International ranked Guatemala 146th out of 180 countries, considering that it has remained under the prolonged control of a corrupt elite that still maintains its influence over the judiciary and the Public Prosecutor's Office.<sup>31</sup>

48. During the period between the on-site visits in 2017 and 2024, the IACtHR reported a process of severe setbacks in the fight against impunity and corruption in Guatemala, characterized by the systematic weakening of judicial independence and the dismantling of anti-corruption institutions. These setbacks have affected the enjoyment of human rights by the population, eroding trust in institutions and generating a climate of social discontent.<sup>32</sup>
49. During its 2017 on-site visit, the IACtHR repeatedly received information about the persistence of parallel power structures that impeded the fight against impunity and corruption.<sup>33</sup> During the visit, the IACtHR noted significant progress in this area, thanks to the work of the Public Prosecutor's Office and the International Commission

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<sup>30</sup> World Justice Project, Rule of Law Index 2024: Guatemala, available at: <https://worldjusticeproject.org/rule-of-law-index/country/2024/Guatemala>

<sup>31</sup> Transparency International, [CPI 2024 for the Americas: Corruption fuels environmental crime and impunity in the region](#), February 11, 2025.

<sup>32</sup> See IACtHR, [Annual Report 2023, Chapter IV.B, Guatemala](#), OEA/Ser.L/V/II. Doc. 386 rev. 1, December 31, 2023, Conclusions; IACtHR, [Annual Report 2022, Chapter IV.B, Guatemala](#), OEA/Ser.L/VII. Doc. 50 rev. 1, April 1, 2023, para. 11; IACtHR, [Annual Report 2021, Chapter IV.B Guatemala](#), OEA/Ser.L/V/II. Doc. 64 rev. 1, May 26, 2022, para. 9; IACtHR, Annual Report 2020, [Chapter V, Third Follow-up Report on Recommendations Made by the IACtHR in the Report on the Situation of Human Rights in Guatemala](#); IACtHR, Annual Report 2019, [Chapter V, Second Follow-up Report on Recommendations Made by the IACtHR in the Report on the Situation of Human Rights in Guatemala](#); IACtHR, Annual Report 2018, [Chapter V, Follow-up Report on Recommendations Made by the IACtHR in the Report on the Situation of Human Rights in Guatemala](#).

<sup>33</sup> See IACtHR, [Human Rights Situation in Guatemala](#), OEA/Ser.L/V/II. Doc. 208/17, December 31, 2017, para. 472.

against Impunity in Guatemala (CICIG).<sup>34</sup> This joint effort resulted in the dismantling of organized crime networks and structures, as well as the initiation of investigations that revealed the involvement of officials from the three branches of government in acts of corruption.<sup>35</sup> However, these advances provoked an adverse response from the highest levels of political, economic, and military power, which led to the early termination of the CICIG's mandate and the beginning of a process of co-optation of the justice system and state institutions.

50. On August 27, 2017, then-President Jimmy Morales declared Iván Velásquez, Commissioner of the CICIG, persona non grata and ordered his immediate expulsion from the country<sup>36</sup>, in retaliation for the announcement of an investigation into alleged illegal electoral financing involving the executive branch and various political

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<sup>34</sup> The CICIG was an independent international body created in 2006 through an agreement between the United Nations and the Government of Guatemala, whose purpose was to combat violence, insecurity, and impunity caused by illegal groups and clandestine security forces in the country. See Agreement between the United Nations and the Government of Guatemala on the Establishment of an International Commission Against Impunity in Guatemala (CICIG), December 12, 2006.

<sup>35</sup> Between 2007 and 2017, the CICIG played a key role in dismantling criminal structures that, from within the state, contributed to consolidating intricate networks of impunity. During its mandate, CICIG led to the dismantling of 70 structures, presented 120 high-impact cases and a hundred requests for the removal of immunity from public officials, and some 1,540 people were charged in investigations by the Public Prosecutor's Office. Among the investigations carried out, the case of "La Línea" stood out. It involved a customs fraud and bribery network operating at the highest levels of the State and resulted in the resignation of former President Otto Pérez Molina and former Vice President Roxana Baldetti. In addition, CICIG played a key role in promoting legal reforms aimed at strengthening the justice system. See CICIG, [Thematic Report Guatemala: A Captured State](#), August 28, 2019.

<sup>36</sup> Prensa Libre, ["Government bans Iván Velásquez from entering the country."](#) September 4, 2018; CNN Español, ["Guatemalan government bans Iván Velásquez from entering the country."](#) September 4, 2018; also IACtHR, [Human Rights Situation in Guatemala](#), OEA/Ser.L/VII. Doc. 208/17, December 31, 2017, paras. 59 to 65.

parties.<sup>37</sup> For its part, on September 13, 2017, the Congress of the Republic approved a series of reforms to the Penal Code to reduce the penalties for this crime and exclude the top leaders of political parties from criminal responsibility. These events marked the consolidation of an alliance between the executive branch under then-President Morales, members of Congress, and other powerful political and economic groups, aimed at perpetuating impunity, publicly identified as the "pact of the corrupt".<sup>38</sup>

51. In this context, the IACtHR issued Resolution 1/17, "Human Rights and the Fight against Corruption and Impunity," in which it called for the independent exercise of public powers in order to guarantee the rule of law and urged that the CICIG Commissioner be allowed to continue his work.<sup>39</sup> On March 27, 2018, the IACtHR published its country report on the human rights situation in Guatemala, based on its 2017 on-site visit, in which it reiterated its call on the State to redouble its commitment to fighting impunity, violence, intolerance, and corruption through a strengthened, independent, and impartial justice system.<sup>40</sup>
52. On August 31, 2018, at a press conference surrounded by a group of military and police officers, then-President Morales endorsed the unilateral decision not to renew the CICIG's mandate, alleging

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<sup>37</sup> Although Congress had to backtrack on these reforms due to the reaction of Guatemalan society, which called for massive peaceful protests, these events triggered serious "institutional instability" in the country. Subsequently, on October 18, 2018, Congress promoted a new reform of the crime of illicit electoral financing, this time with the support of various actors from Guatemala's economic elite. Cf. Fundación Libertad y Desarrollo, [Las reformas al delito de financiamiento electoral ilícito](#), August 31, 2018.

<sup>38</sup> See Plaza Pública, "[Arzú and Morales join forces or the pact of the corrupt is consolidated](#)," January 14, 2018; No Ficción, "[Pact of the Corrupt](#)," March 2, 2020; InSight Crime, "[The Perpetuation of Corruption: The System Undermining Guatemala's 2023 Elections](#)," June 21, 2023.

<sup>39</sup> CIDH, Resolución 1/17, Derechos humanos y lucha contra la impunidad y la corrupción, 12 de septiembre de 2017, párr. 4.

<sup>40</sup> See IACtHR, [Human Rights Situation in Guatemala](#), OEA/Ser.L/V/II. Doc. 208/17, December 31, 2017, para. 17.

"selective criminal prosecution, with ideological motivations," which distorted its own mandate.<sup>41</sup> The CICIG and the Public Prosecutor's Office, then led by Thelma Aldana Hernández, continued their work until the end of their mandate. On August 20, 2019, the CICIG presented its closing report, "The Legacy of Justice in Guatemala," which documented the cases investigated and the reappearance of the Illegal Corps and Clandestine Security Apparatus (CIACS).<sup>42</sup> On August 29, it released its final report, "Guatemala: A Captured State," which outlined evidence that these criminal networks had captured the state through a scheme of corruption.<sup>43</sup> On September 3, 2019, CICIG ended its mandate early following the unilateral termination of the agreement with the United Nations.

53. After the departure of the CICIG, the Congress of the Republic created a commission to investigate its management.<sup>44</sup> In January 2020, this legislative commission presented its report to the Plenary of Congress, in which it stated that the CICIG had exceeded the functions established in its founding agreement; in particular, "instead of identifying illegal groups and clandestine security apparatuses, it limited itself to the political and selective persecution of specific sectors of Guatemalan society and even foreigners residing in the country, manipulating the legal institutions of the Guatemalan criminal justice system at will and with total arbitrariness to achieve destabilizing ends, polarity, and social fragmentation".<sup>45</sup> This report was sent to the Public Prosecutor's Office "with the aim of obtaining the arrest warrants that are legally required from the

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<sup>41</sup> BBC, ["President Jimmy Morales expels CICIG, the UN commission that is seeking his impeachment for corruption, from Guatemala,"](#) August 31, 2018.

<sup>42</sup> CICG, [Closing Report: The Legacy of Justice in Guatemala](#), August 20, 2019.

<sup>43</sup> CICIG, [Thematic Report Guatemala: A Captured State](#), August 28, 2019, p. 104 et seq.

<sup>44</sup> Guatemala, Congress of the Republic, [Agreement No. 12-2019](#), Diario de Centro América, September 27, 2019.

<sup>45</sup> Truth Commission of the Congress of the Republic of Guatemala, [Report on the actions of the International Commission Against Impunity in Guatemala \(CICIG\) during its term \(2007-2019\)](#), December 19, 2019.

competent judicial bodies"<sup>46</sup>; as well as to the UN and OAS to inform the various nations of "the illegalities reported by the complainants" and committed by the CICIG.<sup>47</sup>

54. During the administration of President Alejandro Giammattei, the IACHR received information about the strengthening of parallel power networks that allegedly operated to consolidate the capture of key state institutions.<sup>48</sup> Specifically, it received information about the intensification of attacks, pressure, and interference against bodies that had maintained independent and impartial work, such as the Constitutional Court, the Special Prosecutor's Office against Impunity (FECI), and the high-risk courts.<sup>49</sup> In addition, it observed an increase in the criminalization and harassment of justice operators and human rights defenders, in a context marked by the loss of independence of the Public Prosecutor's Office.<sup>50</sup> In this regard, various national and international actors pointed to former President Giammattei for facilitating this process<sup>51</sup>, including the controversial re-election of Attorney General María Consuelo Porras, who has

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<sup>46</sup> Truth Commission of the Congress of the Republic of Guatemala, [Report on the actions of the International Commission Against Impunity in Guatemala \(CICIG\) during its term \(2007-2019\)](#), December 19, 2019.

<sup>47</sup> Truth Commission of the Congress of the Republic of Guatemala, [Report on the actions of the International Commission Against Impunity in Guatemala \(CICIG\) during its term \(2007-2019\)](#), December 19, 2019.

<sup>48</sup> IACHR, [Annual Report 2021, Chapter IV.B Guatemala](#), OEA/Ser.L/V/II. Doc. 64 rev. 1, May 26, 2022, para. 21.

<sup>49</sup> IACHR, [Annual Report 2021, Chapter IV.B Guatemala](#), OEA/Ser.L/V/II. Doc. 64 rev. 1, May 26, 2022, para. 2.

<sup>50</sup> IACHR, [Annual Report 2022, Chapter IV.B, Guatemala](#), OEA/Ser.L/V/II. Doc. 50 rev. 1, April 1, 2023, para. 11; IACHR, [Annual Report 2021, Chapter IV.B Guatemala](#), OEA/Ser.L/V/II. Doc. 64 rev. 1, May 26, 2022, para. 9.

<sup>51</sup> U.S. Department of State, [Designation of Alejandro Eduardo Giammattei Falla for Participation in Significant Corruption](#), Statement by Spokesperson Matthew Miller, January 17, 2024, Spanish translation; British Embassy in Guatemala City, [UK sanctions corrupt actors in Guatemala](#), April 2, 2025.

been internationally sanctioned for obstructing high-impact corruption investigations.<sup>52</sup>

55. After evaluating the human rights situation in Guatemala in 2021 and consecutively until 2023, the IACtHR decided to include the Guatemalan State in Chapter IV, Section B, of its Annual Report because it considered that it fell within the scope of Article 59, paragraph 6.d) of the IACtHR Rules of Procedure, which establishes as a criterion for the inclusion of a Member State in this section of the report the existence of structural situations that seriously and gravely affect the enjoyment of the fundamental rights enshrined in the American Declaration, the American Convention, or other applicable human rights instruments.<sup>53</sup> Among other factors, the State's systematic failure to comply with its obligation to combat impunity, attributable to a manifest lack of will, was taken into account.

56. The IACtHR warned that systematic interference with the independence of the judiciary, the weakening of human rights institutions, and increasingly evident setbacks in the fight against corruption and impunity were affecting democratic stability and the very existence of human rights for the Guatemalan population.

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<sup>52</sup> For example, the European Union noted that, in her capacity as Attorney General of Guatemala, the highest-ranking official in the Guatemalan Public Prosecutor's Office participated in efforts to invalidate the results of the first and second rounds of elections held in June and August 2023, including through spurious criminal investigations targeting the Supreme Electoral Tribunal, the Movimiento Semilla political party, and President Arévalo. Furthermore, "under her leadership, the Public Prosecutor's Office has initiated arbitrary proceedings against independent journalists, prosecutors, judges, and civil society activists, including indigenous leaders and students. She is therefore responsible for undermining democracy, the rule of law, and the peaceful transfer of power in Guatemala." Cf. European Union, [Council Decision \(CFSP\) 2024/457 amending Decision \(CFSP\) 2024/254 adopting restrictive measures in view of the situation in Guatemala](#), Official Journal of the European Union, Series L, February 2, 2024.

<sup>53</sup> IACtHR, [Annual Report 2022, Chapter IV.B. Guatemala](#), OEA/Ser.L/V/II. Doc. 50 rev. 1, April 1, 2023; IACtHR, [Annual Report 2021, Chapter IV.B Guatemala](#), OEA/Ser.L/V/II. Doc. 64 rev. 1, May 26, 2022.

## 1. The 2023 presidential election

57. In 2023, the erosion of the principle of separation of powers reached a critical point in Guatemala, due to the Public Prosecutor's Office's abusive use of criminal law to attempt to invalidate the results of the general elections and prevent the inauguration of President-elect Bernardo Arévalo and Vice President-elect Karin Herrera, in contravention of the will of the people expressed at the polls.<sup>54</sup>
58. Faced with the imminent risk of a breakdown of constitutional order, described by the OAS General Secretariat as an "attempted coup by the Public Prosecutor's Office"<sup>55</sup>, the Guatemalan people, led by indigenous ancestral authorities, staged massive peaceful protests and an indefinite strike. These mobilizations, together with the strong support of the international community, were decisive in Bernardo Arévalo taking office on January 15, 2024.
59. Bernardo Arévalo, a former diplomat, founding member of the Movimiento Semilla party, and son of former president Juan José Arévalo—the country's first democratically elected president—won a landslide victory in the second round of elections against Sandra Torres, candidate for the Unidad Nacional de la Esperanza (UNE) party<sup>56</sup> and identified as a representative of the traditional political class.<sup>57</sup> During their campaign, the Arévalo-Herrera presidential ticket presented an anti-corruption agenda, which generated an

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<sup>54</sup> Cf. IACtHR, Resolution 1/2023, "[Human Rights, the Instrumentalization of the Justice System, and Serious Risks to the Rule of Law in Guatemala](#)," adopted on December 10, 2023, Considerations; IACtHR, [Annual Report 2023, Chapter IV.B, Guatemala](#), OEA/Ser.L/V/II. Doc. 386 rev. 1, December 31, 2023, Conclusions.

<sup>55</sup> OAS, Press Release, [OAS General Secretariat Condemns Attempted Coup in Guatemala](#), December 8, 2023.

<sup>56</sup> Cf. WOLA. ["The Beginning of a New Era: Bernardo Arévalo's Opportunities and Challenges for Restoring Democracy in Guatemala"](#), January 9, 2024.

<sup>57</sup> InSight Crime, ["Can Guatemala's New President Revive the Fight Against Corruption and Crime?"](#), January 26, 2024; Crisis Group, "Guatemala's New Government Resists Undermining of Transition", January 30, 2024.

immediate response from actors linked to the "corrupt pact" to prevent them from coming to power.

60. As documented by the IACtHR, the OAS Electoral Observation Mission (MOE/OAS), and the European Union<sup>58</sup>, the electoral and transition process in Guatemala was characterized by a series of interferences by the Public Prosecutor's Office, which called into question the results of the process and jeopardized the constitutional order and the independence of public authorities.<sup>59</sup> Among the actions noted are the opening of investigations against the Movimiento Semilla party, which led to the provisional suspension of the party as a legal entity and the raiding of its headquarters; the removal of more than 125,000 original documents and records from the general elections; raids and threats of criminalization against TSE magistrates and requests for preliminary hearings against them. The IACtHR was also informed of threats against the life and integrity of Bernardo Arévalo de León and Karin Herrera Aguilar, the presidential ticket of the Movimiento Semilla party, which resulted in the granting of precautionary measures.<sup>60</sup>

61. According to the MOE/OAS, the 2023 general elections "marked one of the most complex episodes in Guatemala's recent history. After a pre-election period characterized by a climate of political polarization and judicialization, the period between the first and second rounds of voting pushed the country's democratic institutions to their limits and drew the attention of the international community to Guatemala, in

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<sup>58</sup> For example: European Union Election Observation Mission Guatemala, [Preliminary Statement. A well-organized election day, in a process marked by the exclusion of candidates and invalid votes](#), June 27, 2023; OAS, [OAS Electoral Observation Mission congratulates the people of Guatemala for their civic engagement in the second round of elections](#), Preliminary Report, August 22, 2023.

<sup>59</sup> IACtHR, [Annual Report 2023, Chapter IV.B, Guatemala](#), OEA/Ser.L/V/II. Doc. 386 rev. 1, December 31, 2023, para. 6.

<sup>60</sup> Cf. IACtHR, [Resolution 48/2023](#), Precautionary Measures No. 574-23, Cesar Bernardo Arévalo de León and Karin Herrera Aguilar regarding Guatemala, August 24, 2023.

the face of clear threats to the integrity of the process and attempts to disregard the will of the people expressed at the polls".<sup>61</sup>

62. Similarly, the European Union Election Observation Mission (EOM/EU) concluded that the elections had been held in a context of serious deterioration of the rule of law and the independence of the judiciary, as well as severe restrictions on freedom of expression and freedom of the press. This included controversial decisions by the Supreme Electoral Tribunal, the judiciary, and the Constitutional Court.<sup>62</sup>

63. On December 11, 2023, the IACHR adopted Resolution No. 03/2023, "Human Rights, the Instrumentalization of the Justice System, and Serious Risks to the Rule of Law in Guatemala".<sup>63</sup> In its resolution, the IACHR called on the State to guarantee mechanisms for the accountability of the head of the Attorney General's Office that are compatible with international human rights law standards and with the principle of autonomy and independence of that institution.<sup>64</sup> At the end of 2023, the IACHR again included Guatemala in Chapter IV.B of its Annual Report, due to the worsening of the human rights situation and the rule of law as a result of the abusive exercise of punitive power for political and electoral purposes, as well as the State's prolonged failure to comply with its obligation to combat impunity.<sup>65</sup>

64. For its part, the Permanent Council of the OAS addressed the situation of the electoral process in Guatemala in at least five specific

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<sup>61</sup> OAS, [OAS Electoral Observation Mission congratulates the people of Guatemala for their civic engagement in the second round of elections](#), Preliminary Report, August 22, 2023, p. 1.

<sup>62</sup> European Union Election Observation Mission Guatemala, ["A well-organized election day, in a process marked by the exclusion of candidates and invalid votes,"](#) Guatemala City, June 27, 2023, p. 1.

<sup>63</sup> IACHR, Resolution 1/2023, ["Human Rights, the Instrumentalization of the Justice System, and Serious Risks to the Rule of Law in Guatemala,"](#) adopted on December 10, 2023.

<sup>64</sup> IACHR, Resolution 1/2023, ["Human Rights, the Instrumentalization of the Justice System, and Serious Risks to the Rule of Law in Guatemala,"](#) adopted on December 10, 2023, Resolution 5.

<sup>65</sup> Cf. IACHR, [Annual Report 2023, Chapter IV.B, Guatemala](#), December 31, 2023, Conclusions.

sessions.<sup>66</sup> During this period, on December 12, 2023, it adopted the Resolution "Actions against the Rule of Law that Jeopardize the Governmental Transition in Guatemala," in which it entrusted the President of the Council and the Secretary General of the OAS with visiting the country, invoking Article 18 of the Inter-American Democratic Charter.<sup>67</sup> This mission took place between December 15 and 16, 2023. At the request of the State of Guatemala, a group of representatives from the OAS member states was present during the transition of power from January 12 to 14, 2024.<sup>68</sup>

65. Finally, in the early hours of January 15, 2024, after a controversial delay by the Congress of the Republic, the Movimiento Semilla party duo assumed the Presidency of the Republic in accordance with the democratic order and the sovereign will of the people. After the inauguration, the IACtHR expressed to the new government its willingness to provide technical cooperation to address and overcome the serious human rights violations observed in the country, particularly those related to the deterioration of democratic institutions, judicial independence, and the problems of impunity and corruption.<sup>69</sup>

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<sup>66</sup> OAS, Special Session of the Permanent Council to Consider the Situation in Guatemala. OAS/Ser.G CP/OD-244023 rev. 1. July 26, 2023; OAS. Record of the special session to receive the report of the Secretary General of the Organization of American States on the situation in the Republic of Guatemala following his recent visit to that member state, held on August 10, 2023, EA/Ser.G. CP/SA, 2442/23, August 14, 2023; Special session of the Permanent Council held on October 10, 2023, to consider the situation of the transition in the Republic of Guatemala, October 10, 2023, OAS Permanent Council considers the situation of the transition in Guatemala.

<sup>67</sup> Resolution "Actions against the Rule of Law that Jeopardize the Government Transition in Guatemala," approved by the Permanent Council at its regular meeting held on December 12, 2023, Operative Paragraph 4.

<sup>68</sup> OAS, Report by Sir Ronald Sanders, Ambassador of Antigua and Barbuda, in his capacity as Chair of the Permanent Council, CP/doc.5953/23, December 20, 2023 (Original: English), page 4.

<sup>69</sup> IACtHR, Press Release No. 14/24, Guatemala: IACtHR recognizes the inauguration of President Arévalo as a triumph of democracy and the will of the people, Washington, D.C., January 15, 2024.

## C. Violence and citizen security

66. Public safety in Guatemala has been a constant concern for the IACtHR due to high levels of violence, impunity, and the impact of state policies on the rights of different groups that have historically suffered discrimination and exclusion.
67. During the administration of former President Giammattei, the State's response to public safety was largely reactive and focused on strengthening the role of the armed forces in internal security tasks<sup>70</sup>, as well as on controlling social protests and land conflicts, under an approach that contributed to the criminalization of the population.<sup>71</sup>
68. Likewise, during that period, both the IACtHR<sup>72</sup> and the OANUCDH documented the use of states of emergency as "a mechanism for responding to structural and social problems that would require the adoption of measures of a different nature, including administrative, legislative, and jurisdictional measures"<sup>73</sup>. Between 2020 and 2024,

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<sup>70</sup> In 2020, the PDH informed the IACtHR that there were no public protocols for coordination between police and army personnel in matters of citizen security, especially to determine their level of participation during states of siege, which would represent a breach of the 2012 National Security Policy that provided for the development of inter-institutional action protocols. Human Rights Ombudsman, 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. 12, on file with the IACtHR; IACtHR, Annual Report 2020, [Chapter V, Third Follow-up Report on Recommendations Made by the IACtHR in the Report on the Situation of Human Rights in Guatemala](#), para. 82.

<sup>71</sup> The Inter-American Dialogue and Cristosal, "[Guatemala, Violence and Insecurity](#)," Series on Security Policies and the Rule of Law, July 2024, pp. 2-8.

<sup>72</sup> See IACtHR, Annual Report 2020, [Chapter V, Third Follow-up Report on Recommendations Made by the IACtHR in the Report on the Situation of Human Rights in Guatemala](#), para. 83 et seq.

<sup>73</sup> United Nations High Commissioner for Human Rights, [Situation of Human Rights in Guatemala](#), A/HRC/49/20, March 22, 2022, para. 84; United Nations High Commissioner for Human Rights, [Situation of Human Rights in Guatemala](#), A/HRC/52/23, January 26, 2023, para. 94; United Nations High Commissioner for Human Rights, [Situation of human rights in Guatemala](#), A/HRC/43/3/Add.1, Human Rights Council, 43rd session, January 17, 2020, para. 73.

24 emergency decrees were issued<sup>74</sup>; of these, ten were adopted in 2021: six states of prevention, one of them in January in response to the arrival of a caravan of migrants mainly from Honduras and El Salvador; one state of siege and, subsequently, a state of prevention in the municipality of El Estor, department of Izabal; one state of siege in the department of Sololá; and two states of public calamity linked to the spread of COVID-19.<sup>75</sup> In this context, civil society denounced their unjustified use, as well as reports of arbitrary detentions, criminalization of human rights defenders, and abuses by the Army and the National Civil Police, with disproportionate impacts on indigenous peoples.<sup>76</sup>

69. During the on-site visit, the State acknowledged that Guatemala faces a long history of violence that deeply affects society, resulting from structural factors such as poverty, gender inequalities, lack of opportunities, the aftermath of the internal armed conflict, as well as the lack of justice and reconciliation, which has exacerbated social tensions and encouraged a culture of revenge and retaliation. It also noted that the proliferation and strengthening of organized crime groups have transformed Guatemala into a

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<sup>74</sup> According to available information, between 2000 and 2020 an average of one state of emergency was declared per year; however, during the administration of President Alejandro Giammattei (2020–2024), the frequency increased significantly, with 24 decrees issued in that period. The Inter-American Dialogue and Cristosal, [“Guatemala, Violence and Insecurity,” Series on Security Policies and the Rule of Law](#), July 2024, p. 6.

<sup>75</sup> United Nations High Commissioner for Human Rights, [Situation of Human Rights in Guatemala](#), A/HRC/49/20, March 22, 2022, para. 7.

<sup>76</sup> For example, see UDEFEGUA, [Statement “Rejection of the state of siege in three municipalities of Sololá, Guatemala.”](#) July 3, 2020; IACtHR, Annual Report 2020, [Chapter V. Third Follow-up Report on Recommendations Made by the IACtHR in the Report on the Human Rights Situation in Guatemala](#), paras. 84-86. Likewise, in 2020, OHCHR observed the deployment of hundreds of military personnel to various communities under the state of emergency, including areas where massive human rights violations had been perpetrated during the armed conflict, such as Sepur Zarco. This deployment caused fear among the population, particularly among indigenous women. See United Nations High Commissioner for Human Rights, [Situation of human rights in Guatemala](#), A/HRC/43/3/Add.1, Human Rights Council, 43rd session, January 17, 2020.

strategic point for drug trafficking, increasing crimes such as kidnapping, murder, and extortion.<sup>77</sup>

70. Following the IACHR's visit, the State provided information on homicides that occurred between 2018 and 2024. However, the IACHR notes that Guatemala does not have a unified registration system. The information provided to the IACHR comes from different institutions, such as the Ministry of the Interior and the National Institute of Forensic Sciences (INACIF)<sup>78</sup>, with different methodologies and classification criteria, which would limit a comprehensive approach to the phenomenon of violence in the country.
71. The official homicide figures, according to information provided by the Ministry of the Interior, are presented below.

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<sup>77</sup> National Civil Police, "Security Situation in Guatemala," July 20, 2024. Information provided by the Ministry of the Interior during the IACHR's on-site visit, on file with the IACHR.

<sup>78</sup> INACIF provided the IACHR with statistical data on autopsies performed at INACIF headquarters and branch offices nationwide between 2018 and 2024. With regard to records related to criminal acts under investigation, the National Institute of Forensic Sciences (INACIF) reported that 4,773 cases were reported in 2018 and 4,606 in 2019. In 2020, the figure fell to 3,462, but rose again in 2021 with 4,008 cases. From 2022 onwards, there is a significant increase: 8,546 cases under investigation that year, 8,724 in 2023, and 8,482 in 2024. These figures include causes of death associated with firearm projectile wounds; asphyxiation by suspension, submersion, neck ligature, thoracoabdominal compression, or confinement; stab wounds; strangulation; and decapitation. Cf. State of Guatemala, Note Verbale OEA-M4-NV-052-2025 on supplementary information related to the on-site visit to Guatemala, January 15, 2025, IACHR archive, annex 1, National Institute of Forensic Sciences of Guatemala, p. 2.

**Table 1: Homicide figures 2018-2024<sup>79</sup>**

	2018	2019	2020	2021	2022	2023	2024
Homicide	2,296	2,390	2,147	2,377	2,368	2,242	2,190
Homicide committed in a state of violent emotion	21	28	29	22	18	18	15
Manslaughter	43	55	60	72	78	75	79
Homicide in concurrence	0	0	0	0	0	0	2
Attempted murder	513	524	536	520	507	527	559
Homicide in a brawl	10	6	5	3	2	3	8
Premeditated homicide	40	40	32	24	22	23	24
<b>Total</b>	<b>2,410</b>	<b>3,043</b>	<b>3,079</b>	<b>3,018</b>	<b>2,995</b>	<b>2,888</b>	<b>2,877</b>

*Prepared by the IACtHR based on information provided by the State of Guatemala*

72. The Public Prosecutor's Office, for its part, provided the IACtHR with figures on deaths nationwide. These statistics include deaths linked to various crimes, such as homicide, manslaughter, homicide committed in a brawl, homicide committed in a state of violent emotion, murder, femicide, infanticide, parricide, and extrajudicial execution. As shown, these figures vary significantly over the last seven years and contrast with the information provided by other state institutions.<sup>80</sup>

<sup>79</sup> State of Guatemala, Note Verbale OEA-M4-NV-052-2025 on supplementary information related to the on-site visit to Guatemala, January 15, 2025, p. 7.

<sup>80</sup> State of Guatemala, Note Verbale OEA-M4-NV-052-2025 on supplementary information related to the on-site visit to Guatemala, February 3, 2025, IACtHR archive, annex 3, Report of the Secretariat for International Affairs and Cooperation, Public Prosecutor's Office, p. 1.

**Table 2: Number of deaths nationwide 2018–2024<sup>81</sup>**

	2018	2019	2020	2021	2022	2023	2024
Deaths nationwide	5,023	4,663	3,362	3,788	4,012	4,233	4,089

*Prepared by the IACtHR based on information provided by the State of Guatemala*

73. According to information from civil society, in 2024, Guatemala reached a homicide rate of 16.1 per 100,000 inhabitants, with a total of 2,869 cases, representing a decrease from the 2,944 recorded in 2023.<sup>82</sup> This downward trend contrasts with previous years, particularly 2022, when 3,004 homicides were reported.<sup>83</sup> In 2021, there were 2,843 homicides, and in 2020, in the context of the pandemic, there were 2,574 homicides.<sup>84</sup> In previous years, levels of lethal violence were higher. In 2019, there were 3,578 homicides (a rate of 21.5), and in 2018, there were a total of 3,881 (22.4 per 100,000 inhabitants).<sup>85</sup>

74. In relation to other crimes, between January and June 2024, the National Civil Police recorded 20,290 reports. Previously, in 2023, the total crime rate was 196 per 100,000 inhabitants, representing an increase of 10.5% compared to 2022.<sup>86</sup> In this regard, the crime rate against men increased by 7.6% in cases of extortion, theft, and

<sup>81</sup> State of Guatemala, Note Verbale OEA-M4-NV-052-2025 on supplementary information related to the on-site visit to Guatemala, February 3, 2025, IACtHR archive, annex 3, Report of the Secretariat of International Affairs and Cooperation, Public Prosecutor's Office, p. 1.

<sup>82</sup> Insight Crime, [“InSight Crime’s assessment of homicides in 2024,”](#) February 26, 2025.

<sup>83</sup> Insight Crime, [“InSight Crime’s Assessment of Homicides in 2022,”](#) February 8, 2023; CIEN, Infographic: “Homicide Rate and Number of Homicides, 2009-2022.” Disponible en: <https://www.facebook.com/cien.guatemala/photos/a.157772961046400/2523154987841507/>

<sup>84</sup> Insight Crime, [“InSight Crime’s 2022 Homicide Report,”](#) February 1, 2022.

<sup>85</sup> Insight Crime, [“InSight Crime’s 2019 Homicide Report,”](#) January 28, 2020; Insight Crime, [“InSight Crime’s 2018 Homicide Report,”](#) January 22, 2019.

<sup>86</sup> This figure would represent a 13.5% increase compared to the same period last year. Ministry of the Interior and UNDP, [“Analysis of Citizen Security. January-June 2024,”](#) October 18, 2024, p. 1.

injury.<sup>87</sup> Although the crime rate against women grew by 6.2%, the fact is that they continue to be victims of crimes such as domestic violence, sexual offenses, and disappearances in greater proportions.<sup>88</sup> In particular, the rate of domestic violence and sexual offenses against women was 8.7 per 100,000 inhabitants in 2023.<sup>89</sup>

75. In 2023, there was also an increase in reports of disappearances in the department of Alta Verapaz, especially in the municipalities of Santa Cruz Verapaz, San Cristóbal Verapaz, San Pedro Carchá, and Chisec.<sup>90</sup> In these municipalities, 50% of the missing men were children and adolescents between the ages of 0 and 17, while in the case of women, this age group accounted for 73.3% of cases.<sup>91</sup> Nationwide, approximately four women were reported missing per day, with women accounting for six out of every ten missing persons. According to the available information, these data could be related to patterns of human trafficking and other forms of exploitation.<sup>92</sup>
76. During its on-site visit, the State informed the IACtHR that citizen security with a human rights approach is a priority for the administration of President Bernardo Arévalo.<sup>93</sup> However, it acknowledged the lack of political consensus to promote structural changes and the strong influence of criminal groups.<sup>94</sup> This situation is exacerbated by the loss of confidence in the institutions responsible for administering justice, structural corruption, and the weakening of the Public Prosecutor's Office. Added to this is the

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<sup>87</sup> UNDP, "[Analysis of Citizen Security in 2023](#)," February 22, 2024, p. 2.

<sup>88</sup> UNDP, "[Analysis of Citizen Security in 2023](#)," February 22, 2024, p. 2.

<sup>89</sup> Cf. UNDP, "[Analysis of Citizen Security in 2023](#)," April 30, 2024, p. 5.

<sup>90</sup> Cf. UNDP, "[Analysis of Citizen Security in 2023](#)," April 30, 2024, p. 5.

<sup>91</sup> Cf. UNDP, "[Analysis of Citizen Security in 2023](#)," April 30, 2024, p. 5.

<sup>92</sup> Cf. UNDP, "[Analysis of Citizen Security in 2023](#)," April 30, 2024, p. 5.

<sup>93</sup> Meeting with officials from the Ministry of the Interior held on July 24, 2024.

<sup>94</sup> Meeting with officials from the Ministry of the Interior held on July 24, 2024.

presence of criminal structures that have co-opted state institutions or have a strong capacity to influence them, reinforcing a widespread perception of insecurity.

77. Likewise, pressure continues from political actors who promote a security strategy based on a "heavy-handed" approach, through legislative reforms that would be contrary to international standards. In particular, in March 2024, Congress considered Initiative 5692, which proposes to amend Decree 17-73 of the Criminal Code with the aim of classifying maras or gangs as terrorist organizations. Similarly, Bill 6227, known as the "Law Against Gang Terrorism," introduced in 2023, remains pending discussion.<sup>95</sup>
78. On the other hand, the State emphasized that the Army does not participate in citizen security tasks, which correspond exclusively to the civil authority.<sup>96</sup> In this regard, the Ministry of the Interior confirmed to the IACtHR that the National Civil Police (PNC) is the institution responsible for protecting the life, integrity, and security of individuals, guaranteeing peaceful coexistence and the exercise of rights and freedoms, as well as preserving order.<sup>97</sup> It indicated that this work is guided by national legislation and instruments such as the "Comprehensive Community Security Police Model".<sup>98</sup> It also recognized the need to strengthen the PNC through increased resource allocation, human rights training, and the development of a plan to eradicate corruption in the institution.<sup>99</sup>

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<sup>95</sup> State of Guatemala, Note Verbale OEA-M4-NV-052-2025 on supplementary information related to the on-site visit to Guatemala, February 3, 2025, Annex 1, Report of the Congress of the Republic, p. 4.

<sup>96</sup> Meeting with officials from the Ministry of the Interior held on July 24, 2024.

<sup>97</sup> National Civil Police, "Security Situation in Guatemala," July 20, 2024. Information provided by the Ministry of the Interior during the IACtHR's on-site visit, on file with the IACtHR.

<sup>98</sup> National Civil Police, "Security Situation in Guatemala," July 20, 2024. Information provided by the Ministry of the Interior during the IACtHR's on-site visit, on file with the IACtHR, p. 2.

<sup>99</sup> Meeting with authorities from the Ministry of the Interior held on July 24, 2024.

79. In this regard, the PNC reported actions such as a draft reform of the disciplinary regulations, as well as the completion of more than 4,000 reliability tests, the dismissal of 758 officers, 1,296 sanctions for serious offenses, and 374 cases referred to the courts. The PNC also noted that it is promoting the Institutional Criminal Investigation Policy with the aim of reducing crime and violence rates through strategies focused on prevention, investigation, punishment, and reintegration.<sup>100</sup> The investigation component consists of patrols and police operations in various contexts, such as markets, protected natural areas, tourist areas, public and private buildings, as well as public order protection tasks. Among the notable actions, it mentioned operations to reduce homicides, prevent arms trafficking, and control the sale of alcoholic beverages.<sup>101</sup> He also reported on anti-narcotics investigations, the deactivation of explosive devices, the capture of individuals with international arrest warrants, and support to the Public Prosecutor's Office in cases related to homicides, extortion, and violence against women. Finally, the State highlighted that it is in the process of formulating an Institutional Policy on Private Security Services.<sup>102</sup>
80. The IACHR recognizes the actions taken to reform the citizen security model and strengthen the PNC. However, it recalls that it is the duty of the three branches of government to work together to design and implement a democratic security policy with a human

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<sup>100</sup> State of Guatemala, Note Verbale OEA-M4-NV-052-2025 on supplementary information related to the on-site visit to Guatemala, March 12, 2025, COPADEH, Supplementary and updated information on the on-site visit of the Inter-American Commission on Human Rights to Guatemala, carried out during the month of July 2024, p. 9.

<sup>101</sup> State of Guatemala, Note Verbale OEA-M4-NV-052-2025 on supplementary information related to the on-site visit to Guatemala, March 12, 2025, COPADEH, Supplementary and updated information on the on-site visit of the Inter-American Commission on Human Rights to Guatemala, carried out during the month of July 2024, p. 9.

<sup>102</sup> State of Guatemala, Note Verbale OEA-M4-NV-052-2025 on supplementary information related to the on-site visit to Guatemala, March 12, 2025, COPADEH, Supplementary and updated information on the on-site visit of the Inter-American Commission on Human Rights to Guatemala, carried out during the month of July 2024, p. 9.

rights approach. In this regard, the Commission calls on the State to strengthen institutional coordination to address violence from a comprehensive, intersectional, and territorial perspective, especially in the most affected departments and historically excluded areas.

## DEMOCRATIC INSTITUTIONS AND THE RULE OF LAW

81. During the visit, various social sectors and authorities from different branches of government agreed in warning the Commission that many public institutions have been co-opted and that democracy remains at risk.<sup>103</sup> In this regard, the IACHR found an environment marked by a deep institutional crisis and strong tensions between public authorities. In particular, it observed resistance to implementing a political agenda based on democratic values and principles.<sup>104</sup>
82. Below, the IACHR addresses the main findings of its visit in relation to the situation of democratic institutions vis-à-vis the different branches of government.

### **A. Challenges of the executive branch to democratic governance**

83. The IACHR recognizes the commitment expressed on numerous occasions and reaffirmed during the *on-site* visit by President Bernardo Arévalo and Vice President Karin Herrera to combat impunity and corruption, increase accountability, and promote a human rights agenda.<sup>105</sup> This commitment has been reflected in actions such as opening up to international scrutiny, including visits by the IACHR and the United Nations High Commissioner for Human

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<sup>103</sup> The IACHR was informed of this context in virtually all of its meetings with civil society and with the authorities of the branches of government, including in a meeting with the President of the Republic on July 22, 2024.

<sup>104</sup> Meeting of the IACHR with the President of the Republic and members of the executive branch, held on July 22, 2024.

<sup>105</sup> IACHR meeting with the President of the Republic and members of the executive branch, held on July 22, 2024; IACHR, Press Release No. 199/24, [IACHR presents preliminary observations from its on-site visit to Guatemala](#), August 30, 2024; No Ficción, ["Bernardo Arévalo, to the people of Guatemala,"](#) January 15, 2024. InSight Crime, ["Can Guatemala's new president revive the fight against corruption and crime?"](#), January 26, 2024; Plaza Pública, ["Arévalo, President: Anti-Corruption Platform Defeats Traditional Politics,"](#) August 22, 2023.

# DEMOCRATIC INSTITUTIONS AND THE RULE OF LAW

Rights<sup>106</sup> and the establishment of the OAS Election Observation Mission of Justice Authorities<sup>107</sup>, among others.

84. During its first year in office, the executive branch promoted measures to try to restore confidence in institutions, for example, by identifying and reporting alleged illegal acts in the public administration.<sup>108</sup> As part of these efforts, the creation of the National Anti-Corruption Commission (CNC) on February 28, 2024, stands out.<sup>109</sup> In its first year of operation, the CNC filed 236 criminal complaints for acts of corruption in state institutions.<sup>110</sup> In contrast, during the same period, the then Presidential Commission against Corruption<sup>111</sup>, created by the previous government, had filed 12 criminal complaints with the Public Prosecutor's Office.<sup>112</sup>
85. Other executive branch entities also filed complaints for corruption. In August 2024, the Superintendency of Tax Administration (SAT) reported one of the largest alleged tax fraud schemes in the country's history.<sup>113</sup> The case, known as "B410," revealed a network

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<sup>106</sup> Office of the United Nations High Commissioner for Human Rights (OHCHR), [UN Human Rights Chief Volker Türk Concludes Official Visit to Guatemala](#), July 19, 2024.

<sup>107</sup> Organization of American States (OAS), [Election Observation Mission for Justice Authorities in Guatemala Begins Work in the Country](#), Press Release, June 24, 2024.

<sup>108</sup> Presidency of the Republic of Guatemala, "[President Arévalo urges to tear down the wall of corruption that hinders the country's progress](#)," February 14, 2025.

<sup>109</sup> AGN, "[Temporary National Anti-Corruption Commission established](#)," February 14, 2024.

<sup>110</sup> According to available information, of this total, 162 are under investigation, although no progress has been made, while others have been dismissed and archived, Agencia Ocote, Anti-corruption commissioner: "People were hired to destroy documentation," March 17, 2025; also National Anti-Corruption Commission, Corruption Case Dashboard, available at: <https://tablero.cnc.gob.gt/datos/>

<sup>111</sup> Cf. Ministry of the Interior, Government Agreement No. 28-2020, Agreement to temporarily create the Presidential Commission against Corruption, which will report to the Presidency of the Republic of Guatemala, published in Diario de Centro América, February 3, 2020.

<sup>112</sup> Prensa Libre, "[Commission against Corruption has cost Q7.1 million and public perception has not improved](#)," March 3, 2021.

<sup>113</sup> AGN, "[Case B410: How the tax fraud that could reach 800 million quetzals operated](#)," August 16, 2024.

of 410 companies that allegedly defrauded the tax authorities of more than 300 million quetzals (approximately \$39 million), through the falsification of transactions. According to reports, this network operated between 2021 and 2024 and had links to officials in the government of former President Giammattei.<sup>114</sup>

86. On April 4, 2024, the Attorney General's Office (PGN) reported to the MP the alleged irregular purchase of Russian-made COVID-19 vaccines, attributed to the previous administration.<sup>115</sup> The PGN also challenged rulings in high-impact corruption cases that have sought to favor impunity for those responsible.<sup>116</sup>

87. Despite these actions, the IACtHR observes that the lack of independence of the Public Prosecutor's Office is one of the main challenges to the restoration of democratic institutions in Guatemala. According to available information, far from making progress on the allegations of corruption filed by the government, the Attorney General's Office is using criminal law to intimidate and seek to prosecute senior officials of the executive branch and the president.<sup>117</sup>

88. For example, in the case of the complaint regarding the irregular purchase of Russian vaccines, the Public Prosecutor's Office took steps to implicate the Attorney General, rather than investigating the former Minister of Health and other officials who may have been

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<sup>114</sup> Plaza Pública, [“Q300 million stolen: the structure that defrauded the treasury during the Giammattei years,”](#) August 14, 2024.

<sup>115</sup> AGN, [“Government takes legal action against possible irregular purchase of Sputnik vaccines,”](#) April 4, 2024.

<sup>116</sup> AGN, [“PGN’s challenge against the dismissal of Alejandro Sinibaldi’s case is being processed,”](#) June 19, 2024; AGN, [“PGN challenges ruling granted to former Communications Minister José Luis Benito Ruiz,”](#) April 27, 2024.

<sup>117</sup> Human Rights Watch, [“Guatemala: Political Persecution Against the Government,”](#) December 18, 2024; InSight Crime, [“Arévalo, One Year Later: Is Guatemala’s President Losing the Fight Against Corruption?”](#) January 31, 2025.

responsible for the purchase.<sup>118</sup> Likewise, the FECL raided the offices of a company linked to the family of SAT director Marco Livio Díaz, which was described by the President as an attempt to halt progress in the tax fraud case.<sup>119</sup>

89. In this context, the IACHR is concerned about the persistence of criminal proceedings against President Bernardo Arévalo. In the first six months of his term, the President was the subject of eleven criminal complaints classified as spurious, while the Public Prosecutor's Office has requested the removal of his immunity in at least six cases.<sup>120</sup> The actions announced by the Public Prosecutor's Office after the Commission's *on-site* visit are particularly serious, as they constitute a form of retaliation for opening up to international scrutiny.
90. In fact, in a note dated July 29, 2024, the Public Prosecutor's Office responded to the IACHR's preliminary findings and indicated that they showed a clear intention to undermine the autonomy and independence of the Public Prosecutor's Office, as well as to obstruct its investigative work in accordance with the Political Constitution of the Republic, laws, international conventions, and treaties.<sup>121</sup> In the same communication, it urged the executive branch that "instead of seeking advice from other countries and international bodies such as the IACHR on what to do about the autonomy and independence of

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<sup>118</sup> InSight Crime, "[Arévalo, one year later: Is Guatemala's president losing the fight against corruption?](#)", January 31, 2025, p. 19; Prensa Libre, "PGN on Sputnik case: [They want to turn me into a political target](#)", April 25, 2024.

<sup>119</sup> Prensa Comunitaria, "[Arévalo says the Public Prosecutor's Office wants to stop the SAT's work](#)," December 5, 2024.

<sup>120</sup> Human Rights Watch, "[Guatemala: Political persecution against the government](#)," December 18, 2024; according to public information, at least three complaints were filed by the Foundation Against Terrorism, an actor identified as part of the criminalization schemes in Guatemala.

<sup>121</sup> Secretariat for International Affairs and Cooperation of the Guatemalan Public Prosecutor's Office, Official Letter SAIC/G 2024 – 0000860/smgcdr/behedq, Guatemala, July 29, 2024.

the Public Prosecutor's Office and how to resolve the national problem, they should apply the Political Constitution of the Republic [...]"<sup>122</sup>

91. On July 31, 2024, the Attorney General announced that she had requested the Constitutional Court to dismiss the Secretary General of the Presidency, the Attorney General, the Minister of Finance, and the Secretary of Communication. She also requested that criminal proceedings be initiated against the President. According to the Attorney General, these officials took action to remove her from office in violation of an injunction issued by the CC in May 2024. Specifically, the Attorney General pointed to the President of the Republic for receiving the *on-site* visit of the IACtHR:

[...]

*"It is concerning, Mr. President, that you, as the representative of national unity and the person who should look after the interests of the entire Guatemalan population, have welcomed the preliminary observations report left by the delegation to Guatemala. Unfortunately, instead of prioritizing the human rights of the entire population, you express your interest in a small group of people who are being prosecuted for having committed certain crimes: some are prisoners, others are fugitives, some have been sentenced, and others do not want to be investigated. This is without taking into account that more than 500,000 victims come to the Public Prosecutor's Office each year to file complaints. Is this respect for human rights? Is this justice? Or, simply put, should we defend those who commit crimes and not the victims of those crimes? Above all, it is more than worrying that the person who is called upon to defend his country is not doing so."<sup>123</sup>*

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<sup>122</sup> Secretariat for International Affairs and Cooperation of the Guatemalan Public Prosecutor's Office, Official Letter SAIC/G 2024 – 0000860/smgcdr/behedq, Guatemala, July 29, 2024.

<sup>123</sup> Guatemala, Public Prosecutor's Office, Attorney General remains strong and firm in defending the independence and autonomy of the MP, press conference, July 31, 2024, available at: <https://www.youtube.com/watch?v=a5bLQVGaiuc>

92. In response, on August 1, 2024, President Bernardo Arévalo announced the filing of a new impeachment request against the Attorney General and head of the Public Ministry, María Consuelo Porras Argueta, accusing her of violating the Constitution and abuse of authority. The President emphasized that, in this way, he is "fulfilling his duty to lead the fight against corruption"<sup>124</sup>; and considered that the actions of the Attorney General "not only threaten this government, but also the will of the Guatemalan people, freely expressed at the polls".<sup>125</sup> He stated that "this attack once again shows Ms. Porras to be an anti-democratic actor, willing to commit any illegal act to defend the interests of those who feel threatened by this process of transformation".<sup>126</sup> Finally, the President reaffirmed that he leads a "government of unity, with a democratic vocation and respect for republican institutions".<sup>127</sup>
93. Following the IACtHR's visit, the information received points to the continued use of criminal law as a mechanism to undermine the legitimacy of the elected government, which has repercussions on the country's governability. Civil society organizations warned the IACtHR that "the coup actions have not ceased," but rather that the Public Prosecutor's Office continues to pursue criminal proceedings against executive branch officials for the legitimate exercise of their functions.<sup>128</sup> They have also pointed out that criminal prosecution has become a tool of selective repression aimed at destabilizing

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<sup>124</sup> AGN, President Arévalo: "[Consuelo Porras is mistaken if she believes that the government will give in to intimidation and illegal harassment](#)," August 1, 2024.

<sup>125</sup> AGN, President Arévalo: "[Consuelo Porras is mistaken if she believes that the government will give in to illegal intimidation and harassment](#)," August 1, 2024.

<sup>126</sup> AGN, President Arévalo: "[Consuelo Porras is mistaken if she believes that the government will give in to illegal intimidation and harassment](#)," August 1, 2024.

<sup>127</sup> AGN, President Arévalo: "[Consuelo Porras is mistaken if she believes that the government will give in to illegal intimidation and harassment](#)," August 1, 2024.

<sup>128</sup> IACtHR, 192nd Session, Public Hearing "[Criminalization of Justice Operators](#)," held on March 4, 2025.

institutions, neutralizing political opponents, and punishing the defense of human rights and the fight against corruption.<sup>129</sup>

94. In this regard, the IACHR is concerned about allegations that the case known as “Corrupción Semilla” (Seed Corruption) is being used to question the election results and criminally prosecute individuals linked to the ruling party. At the time of writing, this case had resulted in a total of seven convictions under plea agreements, including Ligia Hernández, former director of the Victims' Institute, and Salvador Noé Batz Chuc, former finance secretary of the Semilla Movement party.<sup>130</sup> Likewise, Jorge Santos Neill, former IT director of the Supreme Electoral Tribunal, and lawyer Eduardo Masaya are under house arrest<sup>131</sup>; and former presidential undersecretary Capriel Coloch has been linked to the proceedings.<sup>132</sup>

## **B. Challenges facing the Congress of the Republic**

95. In recent years, the Congress of the Republic of Guatemala has been seriously questioned by civil society and international organizations for acting in favor of private interests, weakening the control mechanisms of the democratic state, and using public power to enrich the country's elites.<sup>133</sup> This is allegedly the result of the

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<sup>129</sup> IACHR, 193rd Session, Public Hearing "[Guatemala: Situation of Human Rights Defenders and Justice Operators](#)," held on July 23, 2025.

<sup>130</sup> Public Prosecutor's Office, "[Seventh sentence handed down in the 'Corrupción Semilla' case](#)," March 3, 2025.

<sup>131</sup> Prensa Comunitaria, "[Seventh Court grants house arrest to lawyer Eduardo Masaya](#)," July 22, 2025; EP Investiga, "[Eduardo Masaya regains his freedom after six months in preventive detention](#)," July 22, 2025.

<sup>132</sup> EP Investiga, "[MP reports arrest of former TSE IT director Jorge Santos Neill](#)," January 15, 2025; Prensa Comunitaria, "[Lawyer Eduardo Masaya remains in custody awaiting his first statement](#)," January 29, 2025; Prensa Libre, "[Semilla Corruption Case: Trial against former undersecretary William Capriel to begin in 2026](#)," June 2, 2025.

<sup>133</sup> In its report, CICIG recounts some of the cases investigated by the MP involving legislators who operated for private gain and illicit enrichment. CICIG, [Guatemala: A Captured State](#), August 27, 2019, p. 85.

control and influence exercised by various political and economic power structures over the legislative branch and political parties, including through illicit financing.<sup>134</sup>

96. Starting in 2017, the alliance between these power networks was consolidated in Congress, reflected in the different parties that promoted the departure of the CICIG and sought to reverse the judicial processes and legal reforms promoted by that commission. Between 2020 and 2024, during the IX Legislature, from the so-called "pact of the corrupt," this alliance promoted initiatives contrary to international standards, including amnesty bills for serious human rights violations committed during the internal armed conflict. In addition, Congress was singled out for actions that weakened democratic institutions, such as the four-year delay in the election of the High Courts for the 2019-2024 term<sup>135</sup> and the stripping of immunity from magistrates of the Supreme Electoral Tribunal.<sup>136</sup> In 2023, at least 100 members of Congress were sanctioned by the

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<sup>134</sup> As an example, in the report "Elections in Guatemala 2023: Between Power and Impunity," InSight Crime analyzes the evolution of organized crime in Guatemala and its penetration into the political and judicial systems, with special attention to the context prior to the general elections. It also describes how four main political blocs—Vamos, UNE, Valor, and Cabal—have consolidated their influence through alliances with corrupt elites and criminals, taking advantage of state structures to preserve their interests, weaken their adversaries, and reverse the progress made by CICIG. These dynamics reflect broader patterns of institutional co-optation, the use of political power to eliminate opposition candidates, and the capture of the electoral process to the detriment of the rule of law, Insight Crime, [Elections in Guatemala 2023: Between Power and Impunity](#), June 2023; Similarly, the influence of criminal networks in the Congress of the Republic was widely documented in CICIG reports, see CICIG, [Guatemala: A Captured State](#), August 27, 2019, and Fundación Myrna Mack, CICIG, [Impunity and Illicit Networks](#), August 2019.

<sup>135</sup> IACtHR, 186th Regular Session, "[Threats to Judicial Independence in Central and South America](#)," March 10, 2023; IACtHR, [Annual Report 2023, Chapter IV.B, Guatemala](#), OEA/Ser.L/V/II. Doc. 386 rev. 1, December 31, 2023, para. 53.

<sup>136</sup> Congress of the Republic of Guatemala [@CongresoGuate], "The Plenary Session of the Congress of the Republic approved the formation of a case against Irma Elizabeth Palencia Orellana, Ranulfo Rafael Rojas Cetina, Gabriel Vladimir Aguilera Bolaños, and Mynor Custodio Franco Flores, in their capacity as magistrates of the Supreme Electoral Tribunal, for the possible commission of crimes committed in the acquisition of the Preliminary Election Results Transmission System (TREP)," November 30, 2023, [Tweet] available at: <https://x.com/CongresoGuate/status/1730478151627661636>

United States government for actions that undermined the rule of law during the general elections.<sup>137</sup>

97. During its visit to the country, the Board of Directors of the Congress of the X Legislature (2024-2028) expressed to the IACtHR its willingness to move forward in strengthening democracy and human rights. However, it indicated that the legislature continues to be strongly influenced and controlled by partisan blocs linked to corrupt practices, some of which continue to promote a regressive legislative agenda and seek to obstruct the work of the executive branch.<sup>138</sup>
98. An example of this is the disproportionate use of interpellations against senior officials of the executive branch. In July 2024, the then Minister of Communications, Félix Alvarado, reported that he was summoned by Congress more than six times a day.<sup>139</sup> For his part, the Minister of Foreign Affairs pointed out that it was impossible for him to leave the country for more than seven months to represent Guatemala in international forums where the participation of the

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<sup>137</sup> U.S. Department of State, [Additional Measures Taken to Impose Visa Restrictions in Response to Anti-Democratic Actions in Guatemala](#), Statement by Spokesperson Matthew Miller, December 11, 2023.

<sup>138</sup> Meeting of the IACtHR with the Board of Directors of the Congress of the Republic and members of the Movimiento Semilla party held on July 22, 2024; Along the same lines, in its annual report, the OHCHR noted the Executive Board's openness to creating spaces for citizen participation in Congress, with the aim of determining priority issues on the legislative agenda, especially regarding the rights of Indigenous Peoples. OACNUDH implemented a training program on the application of human rights norms and standards for advisors to the Congressional Human Rights Commission. It also held discussions with deputies and advisors to the Commission on Disability Issues and the Commission on Women, United Nations High Commissioner for Human Rights, [Situation of human rights in Guatemala](#), AHRC/58/22, Human Rights Council, 58th session, January 21, 2025, para. 13.

<sup>139</sup> In this regard, in an interview with Emisoras Unidas radio, the minister said: "What we are trying to do is change the way the ministry works, which is not only difficult in itself, because we not only have to change the way institutions operate, but also do so with everything against us. It turns out that, on the one hand, we are the bad guys in Congress at the moment, with approximately 6.8 summonses per day since the administration began two months ago," Emisoras Unidas, ["Minister of Communications outlines difficulties in addressing the road network"](#), July 23, 2024.

foreign minister cannot be delegated.<sup>140</sup> According to official information, in 2024 there were a total of 1,538 summonses to senior executive officials, "which involved the use of 2,307 working hours and 288 working days devoted exclusively to these activities".<sup>141</sup>

99. The IACHR was also informed about the effects of the suspension and subsequent arbitrary cancellation of the legal status of the Movimiento Semilla party, ordered by a criminal judge in the context of the 2023 electoral process. This decision was intended to prevent individuals elected to public office from taking office, despite having been elected by popular vote.<sup>142</sup> Although these individuals assumed their positions, Semilla's deputies were declared independent, resulting in their exclusion from the Congress Board of Directors and legislative committees.<sup>143</sup> This measure would have significantly limited their ability to act in Parliament, both in terms of promoting anti-corruption reforms and exercising oversight functions. In addition, the committees considered to be of greatest political importance

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<sup>140</sup> AGN, "[Foreign Minister highlights that the interpellation has caused Guatemala's absence from international forums](#)," January 17, 2025.

<sup>141</sup> AGN, "[Executive highlights high number of legislative summonses in 2024](#)," January 27, 2025.

<sup>142</sup> On that occasion, the Secretary General of the OAS rejected the consequences of canceling the party and the fact that the president-elect would take office without a party, saying, "That would affect the sovereign decision of the people. A sovereign decision that not only elected Bernardo Arévalo as President of the Republic of Guatemala, but also elected congressmen on behalf of a political party called Movimiento Semilla." OAS, Report of the Secretary General of the OAS, Luis Almagro, "[Mission for the transition process in Guatemala](#)," September 18, 2023.

<sup>143</sup> As documented by OACNUDH, the initial composition of the Board of Directors was challenged through amparo actions before the Constitutional Court by opposition deputies and by the Foundation against Terrorism. It was argued that an order by the Seventh Criminal Court Judge to suspend the legal status of the official Movimiento Semilla party was in force, based on the Law against Organized Crime, and that it was therefore impossible for the elected representatives of this party to hold positions in the legislative branch. The Constitutional Court ultimately upheld the appeal [on June 18, 2024](#). See United Nations High Commissioner for Human Rights, [Situation of human rights in Guatemala](#), AHRC/58/22, Human Rights Council, 58th session, January 21, 2025, para. 11.

remained under the control of parties belonging to the traditional political establishment.<sup>144</sup>

100. The IACtHR considers that the forced cancellation of a political party constitutes one of the most serious forms of interference with freedom of association and political rights, and could only be justified in exceptional circumstances, under strict standards of legality, necessity, and proportionality. In this case, the decision did not comply with the requirements of the Electoral and Political Parties Law and was based on a discretionary interpretation of the Organized Crime Law. The IACtHR warns that the cancellation of the Movimiento Semilla party not only affects its members, but also the democratic representation of those who voted for its candidates, thereby restricting political pluralism and weakening the balance of powers in Guatemala.
101. As discussed below, the role of Congress in the selection and appointment processes under its jurisdiction represents one of the main challenges to restoring the legitimacy of Guatemala's democratic system. In recent years, the actions of parliamentary groups linked to the "corrupt pact" in the selection processes for justice officials have facilitated the appointment of individuals aligned with third-party interests rather than the selection of the most suitable candidates for the position. In order to reverse institutional deterioration, the IACtHR calls on Congress to act in accordance with democratic principles and international standards in this area, especially in view of the renewals of the TSE and the Constitutional Court scheduled for 2026.

### **C. Challenges in the justice system**

102. During its visit to the country, the IACtHR observed firsthand the crisis facing the justice system in Guatemala, through a series of actions aimed at dismantling progress in cases of large-scale

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<sup>144</sup> InSight Crime, "[Arévalo, One Year Later: Is Guatemala's President Losing the Fight Against Corruption?](#)", January 2025, page 37.

corruption and serious human rights violations. Likewise, the IACtHR noted the continued harassment and criminalization of justice operators, human rights defenders, and journalists.<sup>145</sup>

103. As noted above, this situation led the IACtHR to include Guatemala in Chapter IV.B of its Annual Reports for 2021, 2022, and 2023, considering that these interferences resulted in the erosion of the system of checks and balances of the democratic state and in the systematic failure of the state to fulfill its duty to combat impunity.<sup>146</sup> Judicial investigations<sup>147</sup>, reports from national<sup>148</sup> and international organizations<sup>149</sup>, and information gathered by the IACtHR during its on-site visit indicate that the main organs of the justice system were

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<sup>145</sup> See IACtHR, [Annual Report 2023, Chapter IV.B, Guatemala](#), OEA/Ser.L/VII. Doc. 386 rev. 1, December 31, 2023, para. 59; IACtHR, [Annual Report 2022. Chapter IV.B Guatemala](#), OEA/Ser.L/VII. Doc. 50 rev. 1, April 1, 2023, para. 13.

<sup>146</sup> IACtHR, [Annual Report 2021. Chapter IV.B Guatemala](#), OEA/Ser.L/VII. Doc. 64 rev. 1, May 26, 2022.

<sup>147</sup> For example, in 2014, an investigation by CICIG and FECL revealed a strategy to interfere in the appointment of the highest authorities of the country's judiciary by creating a parallel structure to the Nominating Commissions for the election of the Supreme Court of Justice. This was carried out with the complicity of several legislators and commissioners who were members of the Nominating Commissions, CICIG, ["Parallel Commissions Case,"](#) February 27, 2018; In 2020, the Public Prosecutor's Office revealed another investigation into the manipulation of the 2019 High Court election process, called ["Parallel Commissions 2020,"](#) Emisoras Unidas, ["Congress to the MP: magistrate election files are in the CC,"](#) May 4, 2020.

<sup>148</sup> Myrna Mack Foundation, Parallel Commissions: Mechanisms for Co-opting Justice, Guatemala, May 2020; GAM, COPIJ, "The Process of Electing Magistrates to the Supreme Court of Justice and the Courts of Appeals. Historical evolution, context, and current situation in 2004, 2009, 2014, and 2019," October 2023, on file with the IACtHR.

<sup>149</sup> CICIG, ["Nominating Commissions: Challenges to Ensuring Judicial Independence,"](#) July 2019; WOLA, ["When the Dominoes Fall: Co-optation of the Justice System in Guatemala,"](#) October 2022; Crisis Group, ["The Perpetuation of Corruption: The System Undermining Guatemala's 2023 Elections,"](#) June 21, 2023;

progressively co-opted by political, economic, and criminal power networks, resulting in the loss of their autonomy and impartiality.<sup>150</sup>

104. The IACtHR identifies below some factors as the main challenges in the justice system, related to the processes of electing the high courts, the concentration of functions of the Supreme Court of Justice, as well as the lack of independence of these bodies, and in particular of the Public Ministry.

#### **1. The selection and appointment process for the Supreme Court of Justice and High Courts**

105. The Commission has followed up on allegations of irregularities that characterized the selection processes for judges of the Supreme Court of Justice and the High Courts in the country. In 2014<sup>151</sup> and 2019<sup>152</sup>, it became aware of alleged influence peddling and illicit negotiations for judicial positions. Subsequently, in 2023, the suspension of the election for more than three years led to the undue extension of the terms of office of the magistrates and, consequently, to the loss of independence of these bodies.<sup>153</sup> To that extent, at the conclusion of its visit to the country, the IACtHR noted that, in order to

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<sup>150</sup> Attempts by political operators within the Guatemalan elite to manipulate the justice system have been documented since at least the end of the internal armed conflict in 1996. Since then, various groups within the Guatemalan elite have manipulated the selection processes for the courts and the head of the Public Prosecutor's Office by co-opting universities, the Guatemalan Bar Association, and other legal associations involved in these selection processes by law. See Insight Crime, "[Guatemala's Courts at Risk of New Criminal Infiltration](#)," June 4, 2020.

<sup>151</sup> IACtHR, [Situation of Human Rights in Guatemala: Diversity, Inequality, and Exclusion](#), OEA/Ser.L/V/II.Doc.43/15, December 31, 2015. Para. 366 et seq.

<sup>152</sup> IACtHR, Annual Report 2019, [Chapter V, Second Follow-up Report on Recommendations Made by the IACtHR in the Report on the Situation of Human Rights in Guatemala](#), paras. 56-61. See also: No-Ficción, "[Election of the CSJ: the machinery of impunity is atrophied](#)," July 16, 2020; No-Ficción, "[Parallel commissions: the self-protection of a corrupt CSJ](#)," November 17, 2021.

<sup>153</sup> IACtHR, [Annual Report 2023, Chapter IV.B, Guatemala](#), OEA/Ser.L/V/II. Doc. 386 rev. 1, December 31, 2023, para. 53.

rebuild public confidence in the judiciary, the selection process for the 2024-2029 term should be consistent with international standards.<sup>154</sup>

106. On March 26, 2024, President Bernardo Arévalo told the Permanent Council of the OAS that the Guatemalan people were "on the eve of a legal, but above all political, battle" against the groups that "control the judicial apparatus,<sup>155</sup>" referring to the process of electing the High Courts. Along these lines, the President declared that "international support continued to be necessary"<sup>156</sup>; and indicated that "just as the OAS accompanied the general elections and the transition period," Guatemala required accompaniment in the selection of justice system authorities through an observation mission.<sup>157</sup> In response, on April 16, 2024, the OAS General Secretariat confirmed its willingness to establish a Special Mission for "Observation of the selection process for magistrates of the Supreme Court of Justice, the Courts of Appeals, and other

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<sup>154</sup> IACtHR, [Preliminary Observations from the On-Site Visit to Guatemala](#), OEA/Ser.L/V/II. Doc. 124/24, approved on August 15, 2024, para. 23.

<sup>155</sup> Presidency of the Republic of Guatemala, Speech by President Bernardo Arévalo de León during the formal session of the Permanent Council, March 26, 2024, available at: <http://scm.oas.org/pdfs/2024/CP49438s.pdf>

<sup>156</sup> Presidency of the Republic of Guatemala, Speech by President Bernardo Arévalo de León during the formal session of the Permanent Council, March 26, 2024, available at: <http://scm.oas.org/pdfs/2024/CP49438s.pdf>

<sup>157</sup> Presidency of the Republic of Guatemala, Speech by President Bernardo Arévalo de León during the formal session of the Permanent Council, March 26, 2024, available at: <http://scm.oas.org/pdfs/2024/CP49438s.pdf>

collegiate courts in Guatemala," which made several visits to the country until the conclusion of the process.<sup>158</sup>

107. In October 2024, the Plenary Session of Congress elected the 13 justices of the CSJ, as well as 156 incumbents and 104 alternates for the Courts of Appeals and other collegiate courts.<sup>159</sup> Despite international monitoring and extensive public scrutiny, the Commission was informed that this process was marred by irregularities in the establishment and functioning of the Nominating Commissions. During its on-site visit, the IACtHR observed a climate of widespread fear due to the threat of criminal prosecution against candidates for the judiciary or against the members of the Nominating Commissions themselves, with the aim of favoring profiles aligned with certain political groups.<sup>160</sup>
108. The OAS Observation Mission concluded that the process was not conducted in accordance with international standards.<sup>161</sup> Although it recognized positive aspects in the work of the Nominating Commissions to ensure transparency and access to information, it indicated that the participation of individuals accused of corruption, influence peddling, or internationally sanctioned individuals

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<sup>158</sup> On April 1, 2024, the General Secretariat of the Organization of American States (OAS) received note verbale OEA-M4-NV-82-2024 from the Permanent Mission of Guatemala to the OAS, forwarding Note Ref. SUBORG-172-2024 signed by Ambassador Carlos Ramiro Martínez Alvarado, Minister of Foreign Affairs of the Republic of Guatemala, requesting an Observation Mission for the 2024 election process for the Supreme Court of Justice and the Courts of Appeals. On April 16, the General Secretariat responded through Note Verbal NV OSG/066-24 confirming the willingness of the GSOAS to establish a Mission to accompany the election process for judges. Cf. OAS, Special Observation Mission for the election process of judges of the Supreme Court of Justice, the Courts of Appeals, and other courts of equal rank, [Final Report](#), OAS/Ser.G CP/doc.6056/25, presented to the Permanent Council, January 13, 2025.

<sup>159</sup> Congress of the Republic, ["Chronology of the Election of Magistrates"](#), October 12, 2024.

<sup>160</sup> Meetings of the IACtHR with justice operators and civil society organizations held on July 22, 2024.

<sup>161</sup> OAS, Special Observation Mission for the Election Process of Judges of the Supreme Court of Justice, the Courts of Appeals, and Other Courts of Equal Rank, [Final Report](#), OAS/Ser.G CP/doc.6056/25, presented to the Permanent Council, January 13, 2025, p. 48.

predominated.<sup>162</sup> At the same time, it denounced that well-founded fears of criminalization and interference by the Public Prosecutor's Office deterred the participation of prominent professionals.<sup>163</sup> In turn, it noted that the election process has structural and operational flaws that require a thorough review of the design and functioning of the Nominating Commissions, including the existence of conflicts of interest, since members of the commissions run as candidates, generating vote-trading practices that are incompatible with democratic principles.<sup>164</sup> Among its recommendations, the OAS Mission called for judicial reform so that appointments are made in accordance with international standards, as well as for the elimination of the renewal of CSJ and CA members in a single election every five years, implementing a system of renewal by thirds or other alternatives.<sup>165</sup>

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<sup>162</sup> Cf. OAS, Special Observation Mission for the election process of judges of the Supreme Court of Justice, the Courts of Appeals, and other courts of equal rank, [Final Report](#), OAS/Ser.G CP/doc.6056/25, presented to the Permanent Council, January 13, 2025, p. 26.

<sup>163</sup> OAS, Special Observation Mission for the Election Process of Judges of the Supreme Court of Justice, the Courts of Appeals, and Other Courts of Equal Rank, [Final Report](#), OAS/Ser.G CP/doc.6056/25, presented to the Permanent Council, January 13, 2025, p. 41.

<sup>164</sup> OAS, Special Observation Mission for the election process of judges of the Supreme Court of Justice, the Courts of Appeals, and other courts of equal rank, [Final Report](#), OAS/Ser.G CP/doc.6056/25, presented to the Permanent Council, January 13, 2025, p. 38.

<sup>165</sup> OAS, Special Observation Mission for the election process of judges of the Supreme Court of Justice, the Courts of Appeals, and other courts of equal rank, [Final Report](#), OAS/Ser.G CP/doc.6056/25, presented to the Permanent Council, January 13, 2025, Recommendations.

109. Similarly, the International Panel of Independent Experts<sup>166</sup> stated that Guatemala had failed in its attempt to hold an election in accordance with international standards. In its final report, the Panel concluded that the process of selecting and compiling the lists of candidates was the most deficient since the approval of the Law on Nominating Commissions.<sup>167</sup> Among other facts, it highlighted that the arbitrary use of criminal law, coupled with the complicity and lack of independence of the judiciary, created a context that persistently influenced the final appointments.<sup>168</sup> According to public information, 114 elected officials have been under investigation for their alleged involvement in influence peddling and manipulation of the 2019 judicial election.<sup>169</sup>
110. In this regard, since the report on its visit to the country in 2017, the IACtHR warned that, although on paper the selection process for justice operators appears to be sound, pluralistic, and objective, for several years it "has been abused and corrupted in practice, mainly through the trafficking of political influence for the integration of the Nominating Commissions, as well as insufficient scrutiny of their

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<sup>166</sup> The Panel of Independent Experts for the Election of High Courts in Guatemala (PEI-GT) was an initiative to observe the process of electing judges to the Supreme Court of Justice and the Court of Appeals in Guatemala. It was composed of Antonia Urrejola, Chilean lawyer, former president of the Inter-American Commission on Human Rights (2021), former Minister of Foreign Affairs of Chile (2022-2023), United Nations expert for Colombia; Ana Lorena Delgadillo Pérez, a Mexican lawyer, founder and former director of the Foundation for Justice, member of the United Nations Working Group on Enforced or Involuntary Disappearances; and Sidney Blanco, Salvadoran academic and former judge, who was a member of the Constitutional Chamber of the Supreme Court of Justice between 2009 and 2018, Cfr. Panel of Independent Experts for the Election of High Courts in Guatemala (PEI-GT), [Report on Obstacles and Challenges to Judicial Independence in Guatemala](#), November 2024.

<sup>167</sup> Panel of Independent Experts for the Election of High Courts in Guatemala (PEI-GT), [Report on Obstacles and Challenges to Judicial Independence in Guatemala](#), November 2024, p. 9.

<sup>168</sup> Panel of Independent Experts for the Selection of High Courts in Guatemala (PEI-GT), [Report on Obstacles and Challenges to Judicial Independence in Guatemala](#), November 2024, p. 9.

<sup>169</sup> Prensa Comunitaria, "[One hundred and fourteen magistrates of the new courts take office under the shadow of the Parallel Commissions](#)," October 14, 2024.

qualifications".<sup>170</sup> In what would be one of the most dramatic examples of the system's flaws, the IACtHR learned of the creation of law schools without students, for the sole purpose of placing another dean on the Nominating Commission.<sup>171</sup> According to the OAS Mission, this situation continues and has been exacerbated by new law schools that grant master's and doctoral degrees expeditiously in order to increase the scores of candidates for the judiciary.<sup>172</sup>

111. In 2019, in its report "Nominating Commissions: Challenges to Ensuring Judicial Independence," the CICIG found that, despite having a constitutional design and laws aimed at regulating and making transparent the selection processes and the work of the nominating commissions, legal loopholes have been exploited by public officials, the private sector, and other powerful entities in order to distort the constitutional design of cross-control and turn the election of judicial authorities into a patronage system.<sup>173</sup> The CICIG concluded that the flaws in the system stem from a widespread belief among political, business, and legal professionals "that the ultimate goal of the processes for forming the leadership of the various entities has more to do with the need to seize positions of power than with promoting true independence and implementing the entities' mission."<sup>174</sup>
112. Following her visit to Guatemala in 2025, the United Nations Special Rapporteur on the independence of judges and lawyers reaffirmed that there is a growing perception that the system for appointing

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<sup>170</sup> IACtHR, [Situation of Human Rights in Guatemala](#), OEA/Ser.L/V/II. Doc. 208/17, December 31, 2017, para. 80.

<sup>171</sup> IACtHR, [Situation of Human Rights in Guatemala](#), OEA/Ser.L/V/II. Doc. 208/17, December 31, 2017, para. 80.

<sup>172</sup> OAS, Special Observation Mission for the Election Process of Judges of the Supreme Court of Justice, the Courts of Appeals, and Other Courts of Equal Rank, [Final Report](#), OAS/Ser.G CP/doc.605625, presented to the Permanent Council, January 13, 2025, p. 38.

<sup>173</sup> CICIG, ["Nominating Commissions: Challenges to Ensuring Judicial Independence,"](#) July 2019, p. 21.

<sup>174</sup> CICIG, ["Nominating Commissions: Challenges to Ensuring Judicial Independence,"](#) July 2019, p. 4.

senior judicial authorities requires urgent reform.<sup>175</sup> At the conclusion of her visit, she noted that the absence of a fixed number of members in the Nominating Commissions distorted their representative nature, for example, through the proliferation of universities of low academic quality.<sup>176</sup> She also emphasized that the tables used to evaluate candidates do not comply with constitutional criteria and that the processes have been hijacked by political and private interests, facilitating vote buying and opaque negotiations, even with the participation of sitting judges, which creates serious conflicts of interest.<sup>177</sup> The Rapporteur also warned about the exclusion of historically marginalized groups, as well as people's well-founded fear of being subject to criminal prosecution, which deepens a climate of coercion and further weakens the independence of the justice system.<sup>178</sup> Along these lines, she highlighted the need to implement a partial and staggered renewal of the judiciary in order to avoid the concentration of power.<sup>179</sup>

113. Based on the above analysis, the irregularities documented over the last decade, and in view of the imminent appointment of new senior judicial authorities, the Commission considers it urgent for the State to carry out a comprehensive legal reform to establish a regulatory framework that guarantees that these selection and appointment processes are carried out in accordance with inter-American standards, based on criteria of merit and professional competence, and free from political interference. For the IACtHR, this reform

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<sup>175</sup> Special Rapporteur on the independence of judges and lawyers, [Visit to Guatemala, May 12-23, 2025, Preliminary observations](#), March 23, 2025, p. 1.

<sup>176</sup> Special Rapporteur on the independence of judges and lawyers, [Visit to Guatemala, May 12-23, 2025, Preliminary observations](#), March 23, 2025, p. 2.

<sup>177</sup> Special Rapporteur on the independence of judges and lawyers, [Visit to Guatemala, May 12-23, 2025, Preliminary observations](#), March 23, 2025, p. 2.

<sup>178</sup> Special Rapporteur on the independence of judges and lawyers, [Visit to Guatemala, May 12-23, 2025, Preliminary observations](#), March 23, 2025, p. 2.

<sup>179</sup> Special Rapporteur on the independence of judges and lawyers, [Visit to Guatemala, May 12-23, 2025, Preliminary observations](#), March 23, 2025, p. 2.

cannot be postponed and must be developed in a participatory and democratic manner, as a social pact aimed at restoring legitimacy and public confidence in the justice system.

## **2. Concentration of functions in the Supreme Court of Justice**

114. Furthermore, during its *on-site* visit, the IACtHR received information about the impact on judicial independence resulting from the concentration of administrative, jurisdictional, and disciplinary functions in the Supreme Court of Justice.<sup>180</sup>

115. According to the information provided, following the approval of Decree 7-2022, the CSJ regained control over the judicial career, with the Judicial Career Council and its auxiliary bodies now reporting to it. In addition, it was granted the power to select and remove members of the Judicial Disciplinary Board and its appeals body.<sup>181</sup> This decree reversed the progress made through the Judicial Career Law (Decree 32-2016), designed to ensure that the selection, promotion, transfer, and performance evaluation procedures for justice operators were carried out based on objective, transparent, merit-based, and specialty criteria, as well as to establish guarantees for due process in the disciplinary regime.<sup>182</sup>

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<sup>180</sup> Meeting of the IACtHR with justice operators held on July 22, 2024; in 2016, the Judicial Career Law (Decree 32-2016) established a Judicial Career Council with functional independence from the Supreme Court of Justice (CSJ). However, in 2022, Decree 7-2022 once again subordinated this body to the CSJ and transferred to it broad administrative and disciplinary powers, including the selection and removal of the Judicial Disciplinary Board and its appeals body, as well as the appointment of the Director of the Judicial Studies School, the Executive Secretary of the Council, the General Supervisor of Courts, and the Coordinator of the Professional Performance Evaluation Unit. The concentration of these powers in a single body, which also exercises ultimate judicial authority, has fostered practices such as arbitrary transfers, promotions conditioned on political loyalty, and the discretionary appointment of substitute judges, in contravention of international standards on judicial independence, Special Rapporteur on the independence of judges and lawyers, [Visit to Guatemala, May 12-23, 2025, Preliminary observations](#), March 23, 2025, p. 3.

<sup>181</sup> See United Nations High Commissioner for Human Rights, [Situation of human rights in Guatemala](#), A/HRC/49/20, March 22, 2022, para. 84.

<sup>182</sup> United Nations, Public Prosecutor's Office of Guatemala, "[MP, CICIG, and OHCHR welcome approval of new judicial career law](#)," June 29, 2016.

116. In this regard, following her visit to the country in 2025, the United Nations Special Rapporteur on the independence of judges and lawyers noted that: “The concentration of administrative authority in the Supreme Court ( ) is inherently problematic. It distracts its judges from their basic jurisdictional duties and creates a conflict of interest: the same body that reviews the decisions of lower court judges also controls their careers. This is worrying in any system, but especially when the Supreme Court is perceived to be politically compromised (...).<sup>183</sup> She also highlighted that disciplinary bodies are not functioning properly, as complaints against irregular conduct by justice operators are not investigated, and pressure to please the high court persists.<sup>184</sup>
117. The IACtHR calls on the State of Guatemala to adopt the necessary legal reforms to ensure the effective separation of the administrative and jurisdictional functions of the Supreme Court, by strengthening and ensuring the full autonomy of the Judicial Career Council, as originally established in Decree 32-2016. It also urges the State to guarantee the independent functioning of disciplinary bodies and to ensure that decisions relating to the judicial career are governed by objective, transparent, and merit-based criteria.

### **3. Constitutional Court**

118. According to information received during the *on-site* visit, the independence of the Constitutional Court (CC) is deeply questioned, in particular due to a series of decisions adopted in recent years that have been perceived as aligned with political interests.<sup>185</sup> Among other things, the CC issued rulings that favored the reelection of Attorney General Consuelo Porras by excluding other candidates

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<sup>183</sup> Special Rapporteur on the independence of judges and lawyers, [Visit to Guatemala, May 12-23, 2025, Preliminary observations](#), March 23, 2025, p. 3.

<sup>184</sup> Special Rapporteur on the Independence of Judges and Lawyers, [Visit to Guatemala, May 12-23, 2025, Preliminary Observations](#), March 23, 2025, p. 3.

<sup>185</sup> IACtHR, [Annual Report 2021. Chapter IV.B Guatemala](#), OEA/Ser.L/V/II. Doc. 64 rev. 1, May 26, 2022, para. 41 et seq.

from the process and ordering the Nominating Commission to weigh evaluation criteria in a manner contrary to national law, which ultimately benefited her candidacy.<sup>186</sup> It also ratified the exclusion of candidates not affiliated with the "corrupt pact" in the 2023 elections and suspended the official announcement of the first round election results, deepening the climate of political instability.<sup>187</sup> Following President Arévalo's inauguration, the CC has not acted as a counterweight in resolving issues that have sought to challenge the abusive exercise of power by the Public Prosecutor's Office.<sup>188</sup>

119. Since 2017, the IACtHR has observed acts of criminalization and the discretionary use of preliminary hearings to intimidate or remove judges from the Constitutional Court<sup>189</sup>, as well as direct threats to their lives and integrity, which led to the adoption of precautionary

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<sup>186</sup> As documented by the IACtHR, at least two CC rulings appear to have influenced the process in favor of Consuelo Porras. First, on February 21, 2022, the CC interpreted that, in order to be attorney general, candidates must meet the same requirements as those for becoming a CSJ magistrate, namely ten years as an active lawyer or a term as an appeals court magistrate. In doing so, it sought to exclude first instance judges such as Miguel Ángel Gálvez and Erika Aifán from the process. Subsequently, on April 22, 2022, the CC ordered the nomination committee to draw up the final list of candidates based solely on criteria that would favor the candidate Consuelo Porras, who until then had been excluded. This resolution was made public by "netcenters" and resulted in strong pressure on university deans to change their vote in favor of that candidate. See Plaza Pública, "[How, in two 'rounds,' the CC made Consuelo Porras repeat her term.](#)" May 17, 2022; No Ficción, "[The conspiracy to re-elect Consuelo Porras](#)," May 9, 2022; Human Rights Watch, "[Guatemala: New appointment of attorney general threatens rights](#)," May 19, 2022; No Ficción, "[The conspiracy to re-elect Consuelo Porras](#)," May 9, 2022; Alianza por las Reformas, "[A tailor-made process for electing the Attorney General of the Republic of Guatemala](#)," April 28, 2022.

<sup>187</sup> European Union Election Observation Mission Guatemala, "[A well-organized election day in a process marked by the exclusion of candidates and invalid votes](#)," Guatemala City, June 27, 2023, p. 1; IACtHR, [Annual Report 2023, Chapter IV.B, Guatemala](#), OEA/Ser.L/V/II. Doc. 386 rev. 1, December 31, 2023, para. 72.

<sup>188</sup> Meetings of the IACtHR with justice operators and civil society organizations held on July 22, 2024, during the on-site visit, on file with the IACtHR.

<sup>189</sup> IACtHR, 181st Session, Public Hearing "[Situation of the Human Rights of Justice Operators and Judicial Independence](#)," held on October 28, 2021.

measures by the IACHR.<sup>190</sup> In its 2021 Annual Report, the IACHR concluded that these practices, together with irregularities in the process of renewing the CC for the 2021-2026 term<sup>191</sup>, resulted in its co-optation, which until then had been considered the last independent bastion in the system of checks and balances in the Guatemalan State.<sup>192</sup>

120. For their part, at the meeting held during the *on-site* visit, the magistrates of the Constitutional Court rejected the allegations regarding the court's lack of independence and emphasized that the Court acts as a collegiate body in accordance with the constitutional order. They also expressed concern about the climate of polarization in the country, which they said had been exacerbated by the actions

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<sup>190</sup> On August 29, 2017, the IACHR decided to request the adoption of precautionary measures in favor of Gloria Patricia Porras Escobar and her family in Guatemala. According to reports, the beneficiary was facing a situation of risk due to her work as a judge on the Constitutional Court of Guatemala. The petitioners alleged that several preliminary hearings had been filed against her because of her work, and that she and her husband had been subjected to intimidation, harassment, and surveillance. IACHR, Resolution 34/17, Precautionary Measure No. 431-17, [Gloria Patricia Porras Escobar and family with respect to Guatemala](#), August 29, 2017. Subsequently, on October 25, 2019, it granted precautionary measures in favor of magistrates José Francisco de Mata Vela, Bonerge Amilcar Mejía Orellana, José Mynor Par Usen, and magistrate María Cristina Fernández. In making its determination, the Commission took into account that they would be facing a series of threats to their rights, harassment, and pressure as a result of certain cases with high media coverage. Cf. IACHR, Resolution 56/19, [Precautionary Measure No. 28-19: José Francisco de Mata Vela et al. v. Guatemala](#), October 25, 2019.

<sup>191</sup> In 2021, the IACHR urged the State of Guatemala to carry out the process of renewing the CC for the 2021-2026 term in accordance with international standards. That same year, a Special Mission of the OAS General Secretariat, formed on the basis of Article 17 of the Inter-American Democratic Charter, warned that failure to comply with these standards could seriously undermine the rule of law. Subsequently, the IACHR observed that the process was carried out in a context of questions about the lack of criteria based on the candidates' abilities, experience, and independence. In addition, the interference of external actors was evident in Congress's arbitrary refusal to swear in acting magistrate Gloria Porras, beneficiary of precautionary measures, elected by the University of San Carlos, IACHR, [Annual Report 2021. Chapter IV.B Guatemala](#), OAS/Ser.L/V/II. Doc. 64 rev. 1, May 26, 2022, para. 41 et seq.; Cf. OAS, [Report of the Special Mission to Guatemala from November 27 to December 2, 2020](#), January 12, 2021.

<sup>192</sup> IACHR, [Annual Report 2021. Chapter IV.B Guatemala](#), OEA/Ser.L/V/II. Doc. 64 rev. 1, May 26, 2022, para. 41.

of the CICIG and the selective criminal prosecution of certain sectors for their ideology, including prosecutors, judges, deputies, and the then President of the Republic. They indicated that "all the proceedings were directed at people on the right" and that there is a Guatemala "before and after the CICIG".<sup>193</sup> Some members of the CC also informed the IACHR of the risks they would face as a result of the stigmatization of the Constitutional Court<sup>194</sup>, which had prompted the request for precautionary measures before the Commission itself.<sup>195</sup>

121. The Inter-American Commission calls on the Constitutional Court to exercise its function with independence and impartiality. To this end, it is essential that its members act free from external interference, guarantee the constitutionality and conventionality of acts of power, and contribute to restoring public confidence in the democratic system. In this context, the IACHR recognizes that the integrity of the selection and appointment process for the 2026-2031 term is an opportunity to restore the legitimacy of the Court and strengthen the rule of law in Guatemala.

#### **4. Lack of independence of the Public Prosecutor's Office**

122. During its on-site visit, the IACHR received extensive information and testimony from different groups and sectors of the population, all of whom agreed that the Public Prosecutor's Office is the main threat to the rule of law in Guatemala.<sup>196</sup>

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<sup>193</sup> Meeting of the IACHR with the Constitutional Court of Guatemala, held on July 25, 2024.

<sup>194</sup> Meeting of the IACHR with the Constitutional Court of Guatemala, held on July 25, 2024.

<sup>195</sup> In this context, on January 13, 2024, the IACHR granted precautionary measures in favor of the presiding judge of the Constitutional Court, Leyla Susana Lemus Arriaga, IACHR, Resolution 2/24, [Precautionary Measure No. 4-24, Leyla Susana Lemus Arriaga regarding Guatemala \(presiding judge of the Constitutional Court\)](#), January 13, 2024.

<sup>196</sup> Meetings of the IACHR with civil society organizations and justice operators held on July 22, 2024, in Guatemala City; with civil society organizations and indigenous peoples in Quetzaltenango on July 23, 2024; with indigenous peoples in Cobán on July 23, 2024; with criminalized defenders and justice operators; and with human rights defenders in Guatemala City on July 24, 2024.

123. As indicated to the Commission, this institution acts to protect the interests of corruption networks and the country's elites through the arbitrary and selective use of criminal law, including for electoral and political purposes, against independent justice operators, human rights defenders, and political and social leaders.<sup>197</sup> This was evidenced by the General Secretariat of the Organization of American States when it denounced the "attempted coup"<sup>198</sup> by the Public Prosecutor's Office in the 2023 general elections.<sup>199</sup> Furthermore, despite the inauguration of the elected authorities, it has continued to conduct unfounded and intimidating investigations against the democratic mandate reflected at the polls, deepening an environment of political and institutional instability.<sup>200</sup>
124. The IACtHR observes that the manipulation of the criminal justice system has been possible due to a process of co-optation and institutional dismantling within the Public Prosecutor's Office, which began under the current Attorney General and intensified with her re-

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<sup>197</sup> OAS, Press release, "[OAS General Secretariat condemns coup attempt in Guatemala](#)," December 8, 2023.

<sup>198</sup> As mentioned, in 2023, the electoral and transition process in Guatemala was characterized by a series of interferences by the Public Prosecutor's Office that called into question the results of the process and jeopardized the constitutional order. Among the actions observed were: the removal of more than 125,000 original documents and records from the general elections; raids and threats of criminalization against TSE magistrates and requests for preliminary hearings against them, see *supra*, Chapter II.B.1. The 2023 presidential election.

<sup>199</sup> OAS, Press release, "[OAS General Secretariat condemns coup attempt in Guatemala](#)," December 8, 2023.

<sup>200</sup> Meeting of the IACtHR with the President of the Republic and members of the executive branch, held on July 22, 2024; Human Rights Watch, "[Guatemala: Political Persecution Against the Government](#)," December 18, 2024; Cf. InSight Crime, "[Arévalo, One Year Later: Is Guatemala's President Losing the Fight Against Corruption?](#)," January 31, 2025, p. 50; United Nations High Commissioner for Human Rights, [Situation of human rights in Guatemala](#), A/HRC/58/22, Human Rights Council, 58th session, January 21, 2025, para. 10.

election in 2022.<sup>201</sup> Since then, the Public Prosecutor's Office has allegedly distorted its constitutional mandate to prosecute cases objectively and impartially, facilitating the use of criminal law for criminalization and to guarantee impunity for those responsible for serious human rights violations during the armed conflict or in high-impact corruption cases.<sup>202</sup>

125. Regarding allegations of institutional dismantling, during the visit, prosecutors, former prosecutors, and technical and administrative staff of the MP reported to the IACtHR practices of arbitrary and mass removals, transfers, and dismissals of personnel, including career prosecutors with decades of service. This was done with the aim of placing individuals loyal to the Attorney General in key units of the institution, thereby reversing the progress made in previous years in terms of institutional strengthening, halting high-impact investigations, and using the main prosecutor's offices to criminalize.<sup>203</sup> According to civil society data, more than 150 career prosecutors have been dismissed without due process, including several district attorneys, section chiefs, and individuals with extensive professional experience,

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<sup>201</sup> On May 16, 2022, Consuelo Porras was elected to a new term as head of the Public Prosecutor's Office and the Attorney General's Office amid allegations and complaints about her involvement in the criminalization of justice operators and human rights defenders and in the obstruction of investigations into corruption cases. See Alianza por las Reformas, Forum "Challenges in the election of the Attorney General and Head of the Public Prosecutor's Office," January 27, 2022; WOLA, [Attorney General Elections in Guatemala: Judicial Independence and Democracy at a Crossroads](#), April 18, 2022; Joint statement [Urgent Change Needed in Attorney General](#), May 9, 2022; Right Livelihood, RIDH, CCPR, CIJ, WOLA, [The Reelection of María Consuelo Porras as Attorney General of Guatemala: A Clear Endorsement of Impunity and Corruption](#), May 17, 2022; Also IACtHR, [Annual Report 2022. Chapter IV.B Guatemala](#), OEA/Ser.L/V/II. Doc. 50 rev. 1, April 1, 2023, para. 72 et seq.

<sup>202</sup> IACtHR, [Annual Report 2021. Chapter IV.B Guatemala](#), OEA/Ser.L/V/II. Doc. 64 rev. 1, May 26, 2022, para. 244.

<sup>203</sup> Private meeting held during the IACtHR visit; information provided by the Institute for Comparative Studies in Criminal Sciences of Guatemala (ICCPG) during the on-site visit, on file with the IACtHR.

in violation of the collective bargaining agreement, national legislation, and guarantees of job security.<sup>204</sup>

126. Among the most serious incidents documented by the IACtHR is the co-optation and dismantling of the FECl<sup>205</sup>, which began with the arbitrary dismissal and subsequent criminalization of its then head, prosecutor Juan Francisco Sandoval, as well as several members of the unit.<sup>206</sup> Since 2021, under the direction of prosecutor Rafael Curruchiche, the FECl has been identified as the main unit of the Public Prosecutor's Office responsible for the criminal prosecution of justice operators, journalists, human rights defenders, members of the Movimiento Semilla party, and officials of the current government.<sup>207</sup> In

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<sup>204</sup> Convergence for Human Rights, "Expensive, inefficient, and corrupt: evaluation of the MP during the administration of Attorney General Consuelo Porras," November 2024, p. 33, on file with the IACtHR; see also Plaza Pública, "[Consuelo Porras used a labor agreement, including a bonus, to remove career prosecutors](#)," August 18, 2022; Plaza Pública, "[After intimidation and silence, former employees of the Public Prosecutor's Office confront Consuelo Porras](#)," February 5, 2024; According to a report by INECIP and Alianza por las Reformas, during the tenure of Attorney General Consuelo Porras, in the period 2021-2025, at least 105 prosecutors have been dismissed, including the heads of some of the main sectional prosecutor's offices, such as the FECl, the Internal Affairs Prosecutor's Office, the Prosecutor's Office for Administrative Crimes, the Prosecutor's Office against Corruption, the Prosecutor's Office against Human Trafficking, and the Prosecutor's Office for Human Rights, among others. Of these 105 dismissed prosecutors, only 20 were removed through a formal disciplinary process, while the remaining 85 were dismissed without just cause, INECIP, "Effectiveness or Impunity? The Performance of the Public Prosecutor's Office during the Administration of Consuelo Porras 2018-2025, p. 64, on file with the IACtHR.

<sup>205</sup> The FECl was created under a bilateral agreement between the Public Prosecutor's Office and the now defunct CICIG. Together, the CICIG and the FECl brought more than 120 cases of corruption, illicit electoral financing, organized crime, and other crimes to trial. They also identified more than 70 highly complex criminal structures, charged more than 1,540 individuals, and obtained more than 400 convictions. CICIG, [Final Report, The Legacy of Justice in Guatemala](#), 2019, pp. 51 and 52.

<sup>206</sup> Plaza Pública, "[This is how Consuelo Porras and Rafael Curruchiche dismantled the former Feci](#)," March 24, 2022; WOLA, "[NGOs condemn the arbitrary dismissal of prosecutors and the weakening of the Guatemalan Public Prosecutor's Office](#)," July 11, 2022; IACtHR, [Annual Report 2021. Chapter IV.B Guatemala](#), OEA/Ser.L/V/II. Doc. 64 rev. 1, May 26, 2022, para. 25 et seq.

<sup>207</sup> IACtHR, 184th Regular Session, Thematic Hearing: [Situation of the human rights of defenders, justice operators, and the rule of law in Guatemala](#), June 22, 2022; Cf. IACtHR, Annual Report 2022, Chapter IV.B Guatemala, OEA/Ser.L/V/II. Doc. 50 rev. 1, April 1, 2023.

2022, the IACtHR documented the arrest of 10 former anti-corruption prosecutors from the FECL and former CICIG officials, including Virginia Laparra, chief prosecutor of the FECL in Quetzaltenango, who spent two years in prison and is now in exile.<sup>208</sup>

127. The IACtHR was also informed of unjustified transfers that resulted in the dismantling of other prosecutors' offices and investigations into serious human rights violations. Among other cases, in 2023, the head of the Human Rights Prosecutor's Office, Elena Sut, was arbitrarily transferred with the aim of removing her security measures, forcing her to resign, and eventually go into exile.<sup>209</sup> Prosecutor Sut was in charge of emblematic cases linked to the internal armed conflict, such as Bámaca Velásquez and Diario Militar, and was the beneficiary of provisional measures granted by the Inter-American Court. In the same year, the prosecutors in charge of the Ruiz Fuentes and Valenzuela Ávila cases, also beneficiaries of provisional measures, were transferred and

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<sup>208</sup> The criminal prosecution against her began in 2018, after she reported to the Disciplinary Board of the Judiciary possible inappropriate conduct by a judge accused of leaking confidential information about a case on which she was working. In retaliation, this same judge filed two criminal complaints against her for the same acts: the first in July 2018 in Quetzaltenango and the second in August 2019 in Guatemala City. Amnesty International, "[Guatemala: Amnesty International calls for the immediate and unconditional release of prisoner of conscience Virginia Laparra](#)," November 28, 2022. On April 3, 2023, the United Nations Working Group on Arbitrary Detention considered that the deprivation of liberty of former FECL prosecutor Lilian Virginia Laparra Rivas was arbitrary and contrary to international human rights law, and therefore requested the State to release her immediately. Among other reasons, the Working Group held that Ms. Laparra Rivas was deprived of her liberty for exercising her functions "by filing a disciplinary complaint against a judge, based on information she possessed and considered credible that this judge had leaked information in judicial proceedings relating to corruption. The exercise of her duties falls within her legitimate right to freedom of opinion and expression." Furthermore, it considered that "she has been held in prolonged detention for exercising her legitimate right to defense, since the investigating judge cited her numerous appeals as one of the reasons why she should be deprived of her liberty." See Human Rights Council, Working Group on Arbitrary Detention, [Opinions adopted by the Working Group on Arbitrary Detention at its 96th session](#), March 27 to April 5, 2023, AHRC/WGAD/2023/24, May 18, 2023.

<sup>209</sup> Prensa Comunitaria, "MP traslada a la fiscal encargada del caso del Diario Militar" [Public Prosecutor's Office transfers prosecutor in charge of Diario Militar case], April 11, 2023; Prensa Libre, "[MP traslada a la fiscal encargada del caso del Diario Militar](#)" [Public Prosecutor's Office transfers prosecutor in charge of Diario Militar case], April 11, 2023.

subsequently dismissed, in violation of the decisions of the Inter-American Court.<sup>210</sup>

128. In response to these allegations, the Public Prosecutor's Office informed the IACHR that, between May 17, 2018, and February 2025, it recorded a total of 97 removals of career prosecutors<sup>211</sup> , as

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<sup>210</sup> Information provided by the Institute for Comparative Studies in Criminal Sciences of Guatemala (ICCPG) during the on-site visit, on file with the IACHR.

<sup>211</sup> According to the information received, the removal is based on Article 37 of the Collective Agreement on Working Conditions of the Public Prosecutor's Office and Article 8 of Agreement No. 2-89 dated March 26, 1998, of the Attorney General of the Republic and Head of the Public Prosecutor's Office, Internal Work Regulations of the Public Prosecutor's Office. See State of Guatemala, Note Verbale OEA-M4-NV-026-2025 on supplementary information related to the on-site visit to Guatemala, February 3, 2025, on file with the IACHR, Annex 3, Report of the Secretariat of International Affairs and Cooperation, Public Prosecutor's Office.

well as 30 dismissals<sup>212</sup>, 374 transfers<sup>213</sup>, and 918 resignations.<sup>214</sup> The IACtHR notes that this would represent the departure of more than 1,000 prosecutors during the Attorney General's term. In particular, the Public Prosecutor's Office indicated that dismissal decisions are made in accordance with current legal regulations, including the Organic Law of the Public Prosecutor's Office, the Collective Agreement on Working Conditions, and the Internal Regulations. In this regard, it reported that the Attorney General, in her capacity as head of the Public Prosecutor's Office, is constitutionally empowered to make decisions aimed at fulfilling

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<sup>212</sup> The dismissals would be based on Articles 11(6), 60, 62, 63, 65, 65 Bis, 65 Quater, 65 Quinquies, and 65 Octies of the Organic Law of the Public Prosecutor's Office, Decree No. 40-94 of the Congress of the Republic of Guatemala. State of Guatemala, Verbal Note OEA-M4-NV-026-2025 on supplementary information related to the on-site visit to Guatemala, February 3, 2025, IACtHR archive, Annex 3, Report of the Secretariat for International Affairs and Cooperation, Public Prosecutor's Office, C.A., p. 16.

<sup>213</sup> As indicated, the transfer of personnel is based on Article 251 of the Political Constitution of the Republic of Guatemala and Articles 11, paragraphs 1, 2, 4, and 71 of the Organic Law of the Public Prosecutor's Office, Decree 40-94 of the Congress of the Republic of Guatemala, Article 33 of the Internal Work Regulations of the Public Prosecutor's Office, Agreement 2-28 of the Attorney General of the Republic and Head of the Public Prosecutor's Office, dated March 27, 1998. Additionally, the MP reported that Article 72 of the Organic Law of the Public Prosecutor's Office establishes: "A prosecutor who has been transferred may request before the Attorney General, within three (3) days of being notified of the transfer. The reconsideration must be resolved within a period not exceeding fifteen (15) days; the request for reconsideration shall not suspend the transfer." Article 33 of the Internal Work Regulations of the Public Prosecutor's Office establishes: "Transfers. The Attorney General of the Republic may order the transfer of personnel to other departments when the needs of the service so require, without such a provision implying a reduction in their rights..." For its part, Article 39 of the Collective Agreement on Working Conditions stipulates that transfers shall in no case entail a reduction in salary or other benefits for those transferred, nor shall they fundamentally or permanently alter the working conditions governing the contract. State of Guatemala. Cf. Note Verbale OEA-M4-NV-026-2025 on supplementary information related to the on-site visit to Guatemala, February 3, 2025, Annex 3, Report of the Secretariat of International Affairs and Cooperation, Public Ministry, C.A., p. 16.

<sup>214</sup> State of Guatemala, Note Verbale OEA-M4-NV-026-2025 on supplementary information related to the on-site visit to Guatemala, February 3, 2025, annex 3, Report of the Secretariat for International Affairs and Cooperation, Public Prosecutor's Office, p. 17.

institutional objectives and functions, including the issuance of dismissal agreements.<sup>215</sup>

129. With regard to the resources available to challenge dismissals, the Public Prosecutor's Office stated that the persons affected may apply to the competent court to initiate legal proceedings. If the application is upheld, the court may order reinstatement, in which case the Human Resources Department must take the necessary administrative steps to comply with the order.<sup>216</sup> The Public Prosecutor's Office stated that dismissal decisions are made in accordance with current legislation, including the Organic Law of the Public Prosecutor's Office, the Collective Agreement on Working Conditions, and the Internal Work Regulations.<sup>217</sup> However, prosecutors and former prosecutors have emphasized that the decisions are based on a discretionary interpretation of the collective agreement and internal regulations. Similarly, the mechanisms for challenging these decisions would be ineffective in practice, as the courts are not independent.<sup>218</sup>
130. Furthermore, during its on-site visit, the IACtHR was informed about the establishment of internal surveillance mechanisms, the co-opting of union bodies, and a context of intimidation and criminalization of

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<sup>215</sup> State of Guatemala, Note Verbale OEA-M4-NV-026-2025 on supplementary information related to the on-site visit to Guatemala, February 3, 2025, annex 3, Report of the Secretariat for International Affairs and Cooperation, Public Prosecutor's Office, C.A., pp. 17-18.

<sup>216</sup> State of Guatemala, Note Verbale OEA-M4-NV-026-2025 on supplementary information related to the on-site visit to Guatemala, February 3, 2025, IACtHR archive, Annex 3, Report of the Secretariat of International Affairs and Cooperation, Public Prosecutor's Office, C.A., pp. 17-18.

<sup>217</sup> State of Guatemala, Note Verbale OEA-M4-NV-026-2025 on supplementary information related to the on-site visit to Guatemala, February 3, 2025, IACtHR archive, annex 3, Report of the Secretariat of International Affairs and Cooperation, Public Prosecutor's Office, C.A., pp. 17-18.

<sup>218</sup> Meeting held during the IACtHR visit, in the IACtHR archives; also Plaza Pública, ["After intimidation and silence, former employees of the Public Prosecutor's Office confront Consuelo Porras,"](#) February 5, 2024.

personnel perceived as critical of the current administration.<sup>219</sup> Among other practices, the IACtHR learned of the monitoring of social media, as well as the use of unregulated polygraph tests as tools for "ideological" filtering.<sup>220</sup> According to one of the prosecutors interviewed: "There is a lot of fear, a lot of apprehension. If you say what is wrong, you are immediately punished. It is a situation of harassment in the MP. We are monitored and afraid to express ourselves. The situation for women workers is even worse. It has been more difficult for us to pursue a career in the Public Prosecutor's Office, only to be removed like this. When women are removed, there are profound impacts on their families."<sup>221</sup>

131. Taken together, these practices have affected the prosecutorial independence and capacity of the MP to guarantee the population's access to justice. This situation is exacerbated by the absence of effective accountability mechanisms and checks and balances on the functioning of the Public Prosecutor's Office and its head. According to the Organic Law of the Public Prosecutor's Office, the dismissal of the head of the Attorney General's Office is only possible for "duly proven just cause," which requires the existence of a final conviction for the commission of a criminal offense in the exercise of their functions.<sup>222</sup> In practice, this regulatory framework makes such removal virtually unfeasible, since the MP itself is the entity responsible for investigating and prosecuting crimes, which

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<sup>219</sup> Private meeting held during the IACtHR visit; information provided by the Institute for Comparative Studies in Criminal Sciences of Guatemala (ICCPG) during the on-site visit, on file with the IACtHR.

<sup>220</sup> Private meeting held during the IACtHR visit; information provided by the Institute for Comparative Studies in Criminal Sciences of Guatemala (ICCPG) during the on-site visit, on file with the IACtHR.

<sup>221</sup> Private meeting held during the IACtHR visit.

<sup>222</sup> Congress of the Republic, [Decree 18-2026](#), published in Diario Centroamérica on March 18, 2016, Article 14.

means that any investigation against the Attorney General would have to be conducted by the same institution under her direction.<sup>223</sup>

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<sup>223</sup> Cf. Rule of Law Impact Lab of Stanford Law School and the Cyrus R. Vance Center for International Justice, "[Above the Law: The Public Prosecutor's Office in Guatemala](#)," October 2024; INECIP, [Effectiveness or Impunity? The Performance of the Public Prosecutor's Office during the Administration of Consuelo Porras 2018-2025](#), 2025, p. 72.

## INSTRUMENTALIZATION OF THE JUSTICE SYSTEM

132. As discussed in the previous chapter, during its on-site visit, the IACtHR received abundant information about the instrumentalization of the justice system in Guatemala, both for the purpose of criminalizing justice operators, journalists, human rights defenders, and indigenous, social, and political leaders, and to guarantee impunity in cases of corruption and serious human rights violations. The manipulation of the judicial system represents one of the greatest threats to democratic stability in Guatemala.<sup>224</sup>
133. In 2024, the United Nations High Commissioner for Human Rights warned that state capture constitutes an abuse of power with serious consequences for human rights, especially when economic and political actors take control of state institutions that should be independent, such as the judiciary.<sup>225</sup> For her part, the United Nations Special Rapporteur on the independence of judges and lawyers has stated that attempts by external actors to abuse the justice system for their own benefit constitute a serious threat to the rule of law.<sup>226</sup>
134. In this chapter, the IACtHR presents the patterns of manipulation of justice observed in Guatemala, identifies the actors involved in criminalization, violations of judicial guarantees and the right to defense, as well as the situation of the main groups affected by this practice. Ultimately, it analyzes the manipulation of justice as a weapon used against those calling for accountability in governance

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<sup>224</sup> IACtHR, [Preliminary Observations from the On-Site Visit to Guatemala](#), OEASer.LV/II. Doc. 124/24, adopted on August 15, 2024, para. 14.

<sup>225</sup> Cf. Office of the United Nations High Commissioner for Human Rights (OHCHR), [“Human Rights are our mainstay against unbridled power,”](#) statement by Volker Türk, United Nations High Commissioner for Human Rights, during the 57th session of the Human Rights Council, September 9, 2024.

<sup>226</sup> United Nations, Report of the Special Rapporteur on the independence of judges and lawyers, Margaret Satterthwaite, [Justice is not for sale: the undue influence of economic actors on the judiciary](#), A/79/362, General Assembly, September 20, 2024.

# **INSTRUMENTALIZATION OF THE JUSTICE SYSTEM**

and as guarantee of impunity.

## **A. Criminalization**

135. The IACtHR understands that criminalization consists of the misuse of the constitutional autonomy of the Office of the Prosecutor and its legal framework, as well as the abuse of criminal proceedings and the manipulation of the State's punitive power by state and non-state actors, in order to obstruct the legitimate work of journalists, human rights defenders, justice operators, and political or social leaders, among others. It also consists of persecuting, intimidating, and punishing those who legitimately exercise their rights within the civic and democratic space, such as the right to defend rights, freedom of expression, freedom of association, and the right to assembly.<sup>227</sup>
136. Based on the information and testimonies received during its visit, the IACtHR found that criminalization is a widespread practice in Guatemala that affects different groups of the population throughout the country, and especially historically exploited populations groupings seeking justice and reparations. As indicated to the IACtHR, this is based on a logic of extreme retaliation against those who affect or threaten the interests of illicit power structures that have influence or control over State institutions.<sup>228</sup> It is also made possible by the coordination of the Public Prosecutor's Office, some sectors of the judiciary, and other actors who manipulate the judicial system in order to favor particular interests, perpetuate structures of corruption, and guarantee impunity.<sup>229</sup>

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<sup>227</sup> See IACtHR, [Annual Report 2022, Chapter IV.B Guatemala](#), OEA/Ser.L/V/II. Doc. 50 rev. 1, April 1, 2023, para. 32 et seq.; IACtHR, Criminalization of Human Rights Defenders, OEA/SER.L/V/II. Doc. 49/15, December 31, 2015, para. 3.

<sup>228</sup> Meetings of the IACtHR with civil society organizations and justice operators held on July 22, 2024, in Guatemala City; with criminalized defenders and justice operators; and with human rights defenders in Guatemala City on July 24, 2024.

<sup>229</sup> Meetings of the IACtHR with civil society organizations and justice operators held on July 22, 2024, in Guatemala City; with criminalized defenders and justice operators; and with human rights defenders in Guatemala City on July 24, 2024.

## 1. Actors involved in criminalization

### a. *The role of the Public Prosecutor's Office and complainants with spurious interests*

137. According to the information received, criminalization begins with the filing of unfounded and spurious complaints, which are accepted by the Public Prosecutor's Office without any sufficient attention to the Office's obligation to scrutinise the merits of the complaints. These complaints are filed by private individuals or public officials, some of whom have been or are being investigated for acts of corruption or other serious crimes, as well as by individuals or organizations aligned with the interests of powerful groups who seek to delegitimize, intimidate, or punish those who initiated or pursued legal proceedings against them.

138. A representative case is that of the National Mechanism for the Prevention of Torture in Guatemala. In 2023, the United Nations Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment warned that the Mechanism was performing litigation functions outside its mandate and legal nature.<sup>230</sup> In particular, it noted the filing of complaints against justice operators, which resulted in their criminal prosecution or deprivation of liberty. In this regard, it noted that "it is striking that some complaints and lawsuits have been filed against judicial officials who either conducted investigations against politicians linked to corruption cases or with whom the current president of the national prevention mechanism had disagreements while performing other professional duties".<sup>231</sup> Among others, on June 8, 2022, this body denounced former Attorney General Claudia Paz y Paz and then-

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<sup>230</sup> Subcommittee on Prevention of Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, [Visit to Guatemala from October 8 to 19, 2023: recommendations and observations addressed to the State party](#), United Nations, CAT/OP/GTMROSP/1, October 24, 2024, para. 16.

<sup>231</sup> Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, [Visit to Guatemala from October 8 to 19, 2023: recommendations and observations addressed to the State party](#), United Nations, CAT/OP/GTMROSP/1, October 24, 2024, para. 17.

Human Rights Prosecutor Elena Sut Ren for the alleged selective criminal prosecution of former military personnel accused of crimes against humanity.<sup>232</sup>

139. The complaints have also been filed by individuals or organizations aligned with the interests of powerful groups. Among them is the Foundation Against Terrorism<sup>233</sup>, which has filed complaints against more than 20 former members of the FCEI, three CICIG lawyers, six judges, two former attorneys general<sup>234</sup>, and at least four against the President of the Republic.<sup>235</sup> On July 12, 2025, the European Union announced sanctions against members of that foundation, who "have initiated multiple criminal investigations against judicial officials, journalists, and government representatives, and have participated in the intimidation of civil society and the judiciary".<sup>236</sup>
140. As has been widely documented, this organization also resorts to stigmatization and intimidation on social media, for example, by disseminating photographs of criminalized individuals with a red X

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<sup>232</sup> CEJIL, ["CEJIL rejects the criminalization of former Guatemalan Attorney General Claudia Paz y Paz,"](#) June 10, 2022; Prensa comunitaria, ["Complaint against Claudia Paz y Paz and Elena Sut, an act of intimidation without legal basis,"](#) June 9, 2022.

<sup>233</sup> Consistently, the IACtHR has received information about the predominant role of the organization "Fundación contra el Terrorismo" (Foundation against Terrorism) in the strategy of criminalization through the filing of a large number of criminal complaints, requests for preliminary hearings, and the perpetration of a context of threats, intimidation, harassment, and stigmatization campaigns promoted and driven by members of the Foundation itself, with the acquiescence and tolerance of the Public Prosecutor's Office. In this regard, see the report of the Mission of Judges of the Latin American Federation of Magistrates and the International Union of Magistrates, ["Attacks on Judicial Independence in Guatemala,"](#) October 2022, p. 6; Cyrus R. Vance Center for International Justice, ["The Criminalization of Justice Operators in Guatemala, a Strategy to Ensure Impunity,"](#) December 2022, pp. 44 and 45; InSight Crime, ["Ricardo Méndez Ruiz and the Art of Judicial Terror in Guatemala,"](#) February 7, 2024.

<sup>234</sup> Guatemala Leaks, Connectas, [The Sniper of Anti-Corruption Leaders in Guatemala,](#) 2022.

<sup>235</sup> Systematization of legal actions brought against the President of the Republic, Bernardo Arévalo, in the IACtHR archives.

<sup>236</sup> Council of the European Union, ["Guatemala: Council sanctions three individuals and one entity for undermining democracy and the rule of law,"](#) July 12, 2025.

accompanied by intimidating messages.<sup>237</sup> Likewise, the IACtHR has learned of anonymous social media accounts and the use of net centers that disclose confidential information about judicial proceedings or publicly announce proceedings before they take place, which would indicate coordinated action with the Public Prosecutor's Office.<sup>238</sup>

141. In other cases, criminal prosecution has been initiated by the Public Prosecutor's Office itself, in a selective and expedited manner, through the Prosecutor's Office for Administrative Crimes, the Office of Internal Affairs, the Specialized Prosecutor's Office against the Crime of Usurpation, the Prosecutor's Office against Organized Crime, and the Special Prosecutor's Office against Impunity. For example, in 2024, a journalistic investigation revealed that the FCEI has filed complaints against 84 people in a sample of 31 court files, including complaints against the Semilla party and against students who participated in the 2022 protests at the University of San Carlos.<sup>239</sup>
142. In the complaints filed by the MP itself, the participation of certain private actors as "adhesive plaintiffs" is another pattern that demonstrates the collusion of individuals with the Public Prosecutor's Office to distort and pervert the justice system. According to information received by the IACtHR, through the abusive use of this figure, these actors participate in the proceedings in order to promote delaying tactics, exert undue pressure on judges, and engage in acts

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<sup>237</sup> Twitter account of Ricardo Mendez Ruiz (@RMendezRuiz), [statement of November 1, 2022](#). Also: Agencia Ocote, ["How anti-rights and human rights netcenters mutated in Guatemala,"](#) November 30, 2022; Guatemala Leaks, Connectas, [The Sniper of Anti-Corruption Leaders in Guatemala](#), 2022; Cf. IACtHR, [Annual Report 2022. Chapter IV.B Guatemala](#), OEA/Ser.L/V/II. Doc. 50 rev. 1, April 1, 2023, para. 43.

<sup>238</sup> In this regard, see Agencia Ocote, ["How anti-rights and human rights netcenters mutated in Guatemala,"](#) November 30, 2022; Guatemala Leaks, Connectas, [The Sniper of Anti-Corruption Leaders in Guatemala](#), 2022.

<sup>239</sup> Plaza Pública, ["The legacy of the MP: punishment for the fight against corruption, social protest, and political opponents,"](#) September 19, 2024.

of intimidation and harassment against the accused.<sup>240</sup> Since 2018, the UN Special Rapporteur on the rights of indigenous peoples has identified that companies and large landowners have participated as joint plaintiffs in criminal proceedings against defenders of indigenous territories, playing a decisive role in cases of criminalization.<sup>241</sup> She also expressed concern about allegations of collusion between prosecutors and judges with companies and landowners.<sup>242</sup> This alignment of powerful and large landowners with the Public Prosecutor's Office is not only extraordinarily punitive but can be reasonably interpreted as intended to deter the articulation of legitimate demands by the affected populations.

143. Along the same lines, a report prepared by an independent delegation of international lawyers who visited Guatemala warned that the Public Prosecutor's Office would act in line with business interests in land conflicts with indigenous communities.<sup>243</sup> Specifically, on October 3, 2021, the MP announced the creation of a Prosecutor's Office against the Crime of Usurpation, in response to requests from the Property Rights Observatory, an organization promoted by the Coordinating Committee of Agricultural, Commercial, Industrial, and Financial Associations (CACIF).<sup>244</sup> Subsequently, on April 12, 2023, it inaugurated the Permanent

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<sup>240</sup> See also Amnesty International, “The whole system against them. Criminalization of women justice operators and human rights defenders in Guatemala,” May 2024, p. 31.

<sup>241</sup> Human Rights Council, [Report of the Special Rapporteur on the rights of indigenous peoples on her visit to Guatemala](#), AHRC/39/17/Add.3, August 10, 2018, para. 54.

<sup>242</sup> Human Rights Council, [Report of the Special Rapporteur on the rights of indigenous peoples on her visit to Guatemala](#), AHRC/39/17/Add.3, August 10, 2018, para. 54.

<sup>243</sup> Report of the Independent Delegation of International Lawyers to Guatemala, “We are not usurpers: this is our land,” Agrarian conflict and the rights of indigenous peoples in Alta Verapaz, September 2023, pp. 19 and 20.

<sup>244</sup> Report of the Independent Delegation of International Lawyers to Guatemala, “We are not usurpers: this is our land,” Agrarian conflict and the rights of indigenous peoples in Alta Verapaz, September 2023, pp. 19 and 20.

Attention Office of said prosecutor's office.<sup>245</sup> Both initiatives have contributed to the intensification of the use of the criminal justice system against indigenous communities that defend their territories against companies, as explained later in this report.<sup>246</sup>

144. For its part, at the meeting held with the Public Prosecutor's Office, the latter denied the existence of a practice of criminalization, arguing that it has a legal mandate to investigate all complaints it receives, regardless of the person reported, their position, or profession. In this regard, it insisted that it is an autonomous and independent institution that objectively applies the Guatemalan Constitution and laws.<sup>247</sup> The Public Prosecutor's Office also emphasized that it is up to the courts to issue arrest warrants and other decisions within the framework of the law, and complies with executing those decisions in accordance with its legal mandate.<sup>248</sup> For the IACtHR, the insistence of formalism of function obscures the obligation of the Public Prosceutor's Office to act in good faith and to independently and impartially assess the merits of the use of criminal law by powerful private interests to advance further their privileged economic status. In turn, despite the position expressed by the Attorney General, available statistical information reveals structural deficiencies in criminal investigation and prosecution, as well as the dismissal of cases involving crimes such as corruption and gender-based violence. This is compounded by the existence of a policy of selective and politically motivated criminal prosecution.

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<sup>245</sup> Report of the Independent Delegation of International Lawyers to Guatemala, "We are not usurpers: this is our land," Agrarian conflict and the rights of indigenous peoples in Alta Verapaz, September 2023, pp. 19 and 20.

<sup>246</sup> Cf. Report of the Independent Delegation of International Lawyers to Guatemala, "We are not usurpers: this is our land." Agrarian conflict and the rights of indigenous peoples in Alta Verapaz, September 2023.

<sup>247</sup> Meeting of the IACtHR with the Guatemalan Public Prosecutor's Office held on July 25, 2024.

<sup>248</sup> Meeting between the IACtHR and the Guatemalan Public Prosecutor's Office held on July 25, 2024.

145. In this regard, the IACtHR also notes that complaints representing cases of criminalization tend to be prosecuted in certain courts and tribunals, favoring conditions for the arbitrary use of the punitive power of the State, as described below.

***b. The concentration of cases and the role of the judiciary***

146. The IACtHR was informed that a small group of judges concentrate most of the cases related to the criminalization of justice operators and social or political leaders. This concentration of cases would evidence the collusion of the judiciary to legitimize selective criminal prosecution without due process, through practices that hinder the technical defense of the accused, as well as the abuse of pretrial detention. As an example of this, in 2024, *Plaza Pública* documented that the cases against 80 justice operators, journalists, and social and political leaders who have been criminalized are exclusively channeled to four first instance judges.<sup>249</sup>

147. In 2025, the United Nations Special Rapporteur on the independence of judges and lawyers warned that the current Court Management System of the Judiciary, which aims to ensure the random electronic assignment of criminal cases, appears to be subject to manipulation.<sup>250</sup> At the end of her visit, she indicated that cases involving former justice operators, defense attorneys, and others involved in anti-corruption or transitional justice efforts have been "systematically assigned to a handful of specific judges"; and she noted that it was "highly unlikely that this pattern is

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<sup>249</sup> Plaza Pública, "[The legacy of the Public Prosecutor's Office: punishment for the fight against corruption, social protest, and political opponents](#)," September 19, 2024.

<sup>250</sup> Special Rapporteur on the independence of judges and lawyers, [Visit to Guatemala, May 12-23, 2025, Preliminary observations](#), March 23, 2025, p. 9.

coincidental".<sup>251</sup> She also highlighted the State's refusal to provide technical information on the case assignment system's algorithm.<sup>252</sup>

148. Based on publicly available information and information received during its visit, the IACtHR has identified a group of judges who serve as the main judicial actors in charge of hearings and proceedings related to criminalization. Among them are:

- **Fredy Raúl Orellana, Seventh Multi-Member Judge of the First Criminal Court, Drug Trafficking and Crimes against the Environment**, authorized arrest warrants against justice officials in retaliation for their work, including former Attorney General Thelma Aldana, former prosecutor Juan Francisco Sandoval, and Judge Erika Aifán.<sup>253</sup> He also brought criminal charges against journalist José Rubén Zamora.<sup>254</sup> Since 2023, he has been in charge of the case known as Corrupción Semilla (Seed Corruption), in which he

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<sup>251</sup> Special Rapporteur on the independence of judges and lawyers, [Visit to Guatemala, May 12-23, 2025, Preliminary observations](#), March 23, 2025, p. 9.

<sup>252</sup> Special Rapporteur on the independence of judges and lawyers, [Visit to Guatemala, May 12-23, 2025, Preliminary observations](#), March 23, 2025, p. 9.

<sup>253</sup> For example, on May 3, 2023, he issued new arrest warrants against Thelma Aldana, former attorney general, for the possible commission of the crimes of unlawful association, extortion, ideological falsehood, abuse of authority, breach of duty, and resolutions violating the constitution; Juan Francisco Sandoval, former head of the FECL, for the possible commission of the crimes of unlawful association, abuse of authority, and breach of duty; and against Erika Lorena Aifán, former High Risk Judge, for the possible commission of the crimes of unlawful association, usurpation of functions, ideological falsehood, abuse of authority, and malfeasance. The above is a result of complaints filed by individuals investigated by these justice officials in a corruption case known as "Fénix." See: República, "[Arrest warrants issued for Aldana, Sandoval, and Aifán in IGSS embezzlement case](#)," May 3, 2023; Prensa Comunitaria, "[Arrest warrants issued for former judge Erika Aifán and two former prosecutors](#)," May 3, 2023.

<sup>254</sup> International Press Institute. "[Guatemala: IPI reiterates call for release of journalist José Rubén Zamora](#)," December 7, 2022; Pen International, "[Guatemala: We demand the immediate release of el Periódico director José Zamora and Flora Silva](#)"; CEJIL, "[International organizations reject the criminalization of prominent journalist José Rubén Zamora and strongly denounce the persecution of critical voices in Guatemala](#)"; CPJ. August 3, 2022. [CPJ demands immediate release of Guatemalan journalist José Rubén Zamora](#)," August 3, 2022; X account of the Guatemalan Journalists' Association (@APG\_1947), statement of [July 29, 2022](#).

suspended the legal status of the Movimiento Semilla party —a decision through which he was internationally sanctioned for attempting to undermine the democratic order.<sup>255</sup> He also ordered the arrest of Jorge Santos Neill, former IT director of the TSE, and lawyer Eduardo Masaya in connection with this case, and handed down seven other convictions against individuals linked to the ruling party.<sup>256</sup>

- **Jimmi Rodolfo Bremer, Tenth Judge of the First Criminal Court, Drug Trafficking and Crimes against the Environment.** Among other cases, he authorized the initiation of a criminal investigation against eight journalists and columnists from *El Periódico*, accused of the alleged crime of obstruction of justice, due to a series of newspaper articles covering the Rubén Zamora court case.<sup>257</sup> He also ordered the arrest of lawyer Claudia González, a former CICIG official and defender of

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<sup>255</sup> Decision for which he was internationally sanctioned for attempting to undermine democratic order, see: Council of the EU, "[Guatemala: Council sanctions five individuals for undermining democracy and the rule of law](#)," February 2, 2024.

<sup>256</sup> See *supra*, para. 93.

<sup>257</sup> Cf. La Hora, "[Freedom of expression under THREAT: judge orders investigation of journalists in Zamora case](#)," February 28, 2023; Prensa Comunitaria, "[Public Prosecutor's Office seeks to criminalize journalists](#)," February 28, 2023; Prensa Libre, "[Judge orders investigation of journalists and columnists from elPeriódico and other media outlets at the request of](#) the Public Prosecutor's Office," February 28, 2023; CPJ, "[CPJ calls for Guatemala to halt investigation into elPeriódico journalists](#)," February 28, 2023; IACtHR, [Annual Report 2023, Chapter IV.B, Guatemala](#), OEA/Ser.L/V/II. Doc. 386 rev. 1, December 31, 2023, para. 176.

criminalized justice operators<sup>258</sup>, a criminal proceeding considered to be in retaliation for the independent exercise of technical defense.<sup>259</sup> He has been internationally sanctioned "for actions that undermine democracy and the rule of law in Guatemala, such as the persecution and intimidation of members of the media, as well as lawyers and prosecutors"<sup>260</sup>

- **Sergio Mena, Seventh Multi-Member Judge of the First Criminal Instance**, ordered the arrest of former prosecutor

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<sup>258</sup> According to official information, on August 28, 2023, the former head of CICIG, lawyer, and human rights defender Claudia González was arrested at her home after an arrest warrant was issued as part of an operation led by the Internal Affairs Prosecutor's Office of the Public Prosecutor's Office. She was accused of abuse of authority based on a complaint filed by Judge Blanca Stalling. On September 25, the Tenth Judge of the First Criminal Court, Drug Trafficking and Crimes against the Environment issued an indictment and ordered preventive detention, considering that "neither the defendant nor her defense attorneys were able to refute the danger of flight, as well as the obstruction of the ongoing investigation," and therefore ordered that she remain in custody at the Mariscal Zavala detention center. In this regard, according to the judge, the Public Prosecutor's Office reported that it understands that she could have committed the crime because she acted as a legal representative of the International Commission against Impunity in Guatemala (CICIG), authorized to act on its behalf. In doing so, she acted as a public official or employee of an international public organization, as established in Article 418 of the Criminal Code, and in that capacity, she committed and allowed illegal acts to the detriment of the public administration and another public official by promoting preliminary proceedings without having the authority to do so. In addition, according to the MP, she used evidence that had been gathered prior to the filing of the complaint. Cf. Public Prosecutor's Office, ["In the case 'Illegal Criminal Prosecution Phase I,' a person was brought to trial for the crime of abuse of authority,"](#) September 25, 2023.

<sup>259</sup> In this regard, on October 30, 2023, the Committee on the Elimination of Discrimination against Women (CEDAW) urged Guatemala to eradicate the arbitrary use of criminal law, including arrest warrants and pretrial detention, as retaliation against women human rights defenders in judicial functions, to obstruct their legally mandated work and, in particular, to refer the cases of Virginia Laparra and Claudia González for a new trial, as well as to guarantee their immediate release in accordance with the request of other mechanisms. See Committee on the Elimination of Discrimination against Women (CEDAW), [Concluding observations on the tenth periodic report of Guatemala](#), CEDAW/C/GTM/CO/10, paras. 30-33.

<sup>260</sup> Council of the European Union, "[Guatemala: Council sanctions three individuals and one entity for undermining democracy and the rule of law](#)", June 12, 2025.

Virginia Laparra<sup>261</sup>, which was considered arbitrary by the United Nations Working Group on Arbitrary Detention.<sup>262</sup> He also decided to bring lawyer Solórzano Foppa to trial.<sup>263</sup>

- **Victor Manuel de la Cruz, Tenth Multi-Member Judge of the First Criminal Court, Drug Trafficking and Crimes against the Environment.** According to information provided by civil society, he is responsible for 29 cases of criminalization. Among other things, he authorized 31 search and seizure orders and 27 arrest warrants against students, academic staff, human rights defenders, and lawyers for the protests at the USAC, in the case known as "Toma de la Usac: botín político" (USAC takeover: political booty).<sup>264</sup>

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<sup>261</sup> On February 23, 2022, the IACtHR learned of the arrest of Virginia Laparra, Chief Prosecutor of the FCFI in Quetzaltenango, for the crimes of abuse of authority and usurpation of powers, which would be in retaliation for her work investigating various corruption structures in the Municipality of Quetzaltenango. According to public information, the criminal prosecution against her began in 2018, after she reported to the Disciplinary Board of the Judiciary possible inappropriate conduct by a judge accused of leaking confidential information about a case she was working on. In retaliation, this same judge filed two criminal complaints against her for the same acts: the first in July 2018 in Quetzaltenango and the second in August 2019 in Guatemala City. See IACtHR, [Annual Report 2022, Chapter IV.B. Guatemala](#), OEA/Ser.L/V/II. Doc. 50 rev. 1, April 1, 2023, para. 54

<sup>262</sup> Among other reasons, the Working Group considered that Ms. Laparra Rivas was deprived of her liberty for exercising her duties "by filing a disciplinary complaint against a judge, based on information she possessed and considered credible that this judge had leaked information in judicial proceedings relating to corruption. The exercise of her duties falls within her legitimate right to freedom of opinion and expression." Furthermore, it considered that "she has been held in prolonged detention for exercising her legitimate right to defense, since the investigating judge cited her numerous appeals as one of the reasons why she should be deprived of her liberty." See Human Rights Council, Working Group on Arbitrary Detention, [Opinions adopted by the Working Group on Arbitrary Detention at its 96th session](#), March 27 to April 5, 2023, AHRCWGAD/2023/24, May 18, 2023.

<sup>263</sup> See Prensa Comunitaria, "[Foppa files recusal and preliminary hearing against Judge Mena](#)," May 18, 2023; Public Prosecutor's Office, "[Third conviction handed down against Juan Francisco Solórzano Foppa](#)," June 28, 2023.

<sup>264</sup> See Public Prosecutor's Office, [Press release, Public Prosecutor's Office conducts raids and coordinates arrests in "USAC takeover case: Political Booty."](#) November 16, 2023.

- **Geisler Smaille Pérez Domínguez, Third Multi-Member Judge of the First Criminal Court, Drug Trafficking and Crimes against the Environment**, was sanctioned internationally for obstructing the prosecution of the case "Comisiones Paralelas 2020" (Parallel Commissions 2020).<sup>265</sup> He was also responsible for the criminalization of journalists Sonny Figueroa and Juan Luis Font in retaliation for their investigative work on corruption cases.<sup>266</sup> In 2022, he heard the case "Co-optation and Judicial Corruption," in which he linked Leily Santizo, former head of the CICIG, to the proceedings and ordered the arrest of Eva Siomara Sosa, former prosecutor of the FECl.<sup>267</sup>
- **Carol Patricia Flores, judge on duty in the First Instance Court.** In 2023, she authorized arrest warrants requested by the FECl and the Foundation Against Terrorism against Thelma Aldana, former attorney general, Mayra Veliz, former secretary of the MP, and David Gaitán, former head of CICIG, in a case called "Fraudulent Agreements, Corruption, and Impunity," related to the investigation of the Odebrecht case in

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<sup>265</sup> United States, Department of State, "[Section 353 Report on Corrupt and Undemocratic Actors](#)," 2022.

<sup>266</sup> No Ficción, "[7 Things You Should Know to Understand the Persecution of Journalist Juan Luis Font](#)," November 26, 2021.

<sup>267</sup> IACtHR, [Annual Report 2022, Chapter IV.B, Guatemala](#), OEA/Ser.L/V/II. Doc. 50 rev. 1, April 1, 2023, para. 52; In this regard, on February 11, 2022, the Secretary-General of the United Nations expressed his concern about these events and urged that the right to due process be guaranteed and the independence of the judiciary be observed: "The Secretary-General has learned with concern of the detention of at least two individuals who cooperated closely with the International Commission against Impunity in Guatemala, known as CICIG. The Commission operated for 12 years in the country, until 2019, based on an agreement between the United Nations and the Government of Guatemala. The Secretary-General recalls that judicial proceedings should fulfill the requirements of fair trial and due process, and that it is the duty of all national institutions to respect and observe the independence of the judiciary," United Nations, "[Statement attributable to the Spokesperson for the Secretary-General - on](#) Guatemala," February 11, 2022.

Guatemala.<sup>268</sup> In 2025, she authorized the arrest of indigenous authorities who peacefully led the social mobilizations of 2023, Luis Haroldo Pacheco, former president of the Board of Directors of the 48 Cantons of Totonicapán and current deputy minister of energy and mines, and Héctor Manuel Chacán, former treasurer of said Board of Directors.<sup>269</sup>

- **Third Criminal Appeals Chamber.**<sup>270</sup> In March 2025, at the request of the Public Prosecutor's Office and the Foundation Against Terrorism, the Chamber revoked the alternative measures granted in favor of journalist José Rubén Zamora and ordered his arrest again.<sup>271</sup> On May 30, 2025, at the request of the FCEI, it ordered the arrest of Iván Velásquez Gómez, former commissioner of the CICIG, Luz Adriana Camargo Garzón, current Attorney General of Colombia, and 24 other former prosecutors and members of the CICIG who investigated the Odebrecht case.<sup>272</sup>

149. In addition to the concentration of criminal cases in certain courts, judges who have handed down decisions in accordance with the law or contrary to the interests of the elites have been subjected to reprisals, harassment, threats, arbitrary transfers, disciplinary

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<sup>268</sup> Cf. "#CasoAcuerdosFraudulentosCorrupciónElImpunidad. The Special Prosecutor's Office against Impunity reports," Account of X of the Public Prosecutor's Office of Guatemala (@MPguatemala), [statement of January 16, 2023](#); Cf. Plaza Pública, "[Persecuted by the MP: an overview of the cases against more than 117 defendants](#)," September 19, 2024.

<sup>269</sup> IACtHR, Press Release No. 80/25, [Guatemala: IACtHR rejects criminal prosecution of indigenous leaders who defended democracy](#), Washington, DC, April 26, 2025.

<sup>270</sup> Composed of Justices Alejandro Prado Estrada, Otilio López, and Ingrid García.

<sup>271</sup> La Hora, "[José Rubén Zamora returns to prison after order from Third Appeals Chamber](#)," March 10, 2025.

<sup>272</sup> EP Investiga, "[Third Appeals Chamber orders arrest of Iván Velásquez and Luz Adriana Camargo in Odebrecht case in Guatemala](#)," June 2, 2025.

proceedings without guarantees, and criminalization.<sup>273</sup> Likewise, given the lack of guarantees for their lives and for exercising their functions with independence and security, several judges have been forced into exile as their only form of protection, which has even resulted in provisional measures ordered by the Inter-American Court of Human Rights, as analyzed later in this report.<sup>274</sup>

150. According to information provided to the IACHR, between 2018 and 2024, the Judiciary reportedly recorded the exclusion or suspension of 21 judges from the judicial career. During the same period, a total of 873 permanent transfers were reportedly carried out. However, no detailed information was provided on the specific causes or circumstances that led to each of these cases.<sup>275</sup>
151. The IACHR observes that this pattern of reprisals is part of the aforementioned context of co-optation of the judiciary and lack of independence of the Judiciary. At the same time, other bodies, such as the Constitutional Court<sup>276</sup> and the Human Rights Ombudsman's Office, are not fulfilling their functions as institutional counterweights to the arbitrary use of punitive power, thus deepening the abandonment and lack of protection to the detriment of those who have suffered selective criminal prosecution.<sup>277</sup>
152. With regard to the PDH, during its visit to the country, the IACHR was informed that it had ceased to be an institution that protected

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<sup>273</sup> Infra. B. Main groups targeted for criminalization. 1. Justice operators and Chapter V. Transitional Justice.

<sup>274</sup> Infra. B. Main groups targeted for criminalization. 1. Justice operators and Chapter V. Transitional Justice.

<sup>275</sup> State of Guatemala, Note Verbale OEA-M4-NV-026-2025 on supplementary information related to the on-site visit to Guatemala, February 3, 2025, Annex 2, Report of the Judiciary.

<sup>276</sup> See *supra*, para. 117 et seq.

<sup>277</sup> Meetings of the IACHR with civil society organizations held on July 22, 2024, in Guatemala City; with criminalized defenders and justice operators; and with human rights defenders in Guatemala City on July 24, 2024.

the population.<sup>278</sup> Furthermore, in the context of criminalization, the work of the Office of the Human Rights Ombudsman has been characterized by the filing of legal actions in the interests of powerful groups and elites interested in perpetuating impunity or criminalizing the legitimate exercise of human rights.<sup>279</sup> For example, during the 2023 general elections, the Attorney General filed various actions against former Attorney General Jordán Rodas, who was seeking to run with the Movement for the Liberation of the Peoples, in order to prevent his candidacy for the vice presidency.<sup>280</sup>

153. For his part, the Human Rights Ombudsman emphasized that, since taking office on August 26, 2022, he has exercised his mandate as a "grassroots" ombudsman, considering that the presence of the institution is very necessary in all departments and municipalities.<sup>281</sup> He pointed out that he inherited an institution that needed to be strengthened, with a budget that had been neglected by the institution itself.<sup>282</sup> In this regard, he informed the IACHR about the focus of his work plan, which centers on strengthening public service

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<sup>278</sup> Meeting of the IACHR with the President of the Republic and members of the executive branch, held on July 22, 2024.

<sup>279</sup> For example, see: República, "[¿Cuál fue la respuesta del PDH a las peticiones médicos y estudiantes de la Usac?](#)" [What was the PDH's response to [the requests from doctors and students at the USAC?](#)], July 24, 2023; Prensa Comunitaria, "[Denuncian que PDH no auxilió, ni protegió a estudiantes y personal de la USAC sancionados por el CSU](#)" [Complaints that the PDH did not assist or protect USAC students and staff sanctioned by the CSU], March 26, 2024; Plaza Pública, "[The airplane mode of the current PDH](#)," January 8, 2025.

<sup>280</sup> On January 27, 2023, the IACHR was informed of the refusal of the General Directorate of the Citizen Registry to register the candidacy for the presidency and vice presidency of the political party Movement for the Liberation of the Peoples (MLP), formed by Thelma Cabrera Pérez de Sánchez and Augusto Jordán Rodas Andrade. This was because Mr. Rodas had "legal charges and a complaint" against him and, therefore, did not meet the legal requirement to present a settlement issued by the Comptroller General's Office, as established in national legislation. See IACHR, press release no. 35/23, [IACHR calls for free and fair elections in Guatemala](#), Washington, DC, March 3, 2023.

<sup>281</sup> Meeting of the IACHR with the Board of Directors of the Congress of the Republic and members of the Movimiento Semilla party held on July 22, 2024

<sup>282</sup> Meeting of the IACHR with the Board of Directors of the Congress of the Republic and members of the Movimiento Semilla party held on July 22, 2024

and human rights education, improving staff salaries, and reinforcing the PDH's mandate based on objectivity and a vision that human rights are for everyone. According to the 2024 work report, the Office of the Ombudsman registered 13,942 complaints, investigated 12,579, and took a total of 83,813 actions to address them.<sup>283</sup>

## **2. Main patterns of criminalization**

154. Based on information provided during the on-site visit by persons subject to this practice and information gathered through monitoring mechanisms, the IACtHR identifies the following specific patterns of instrumentalization of criminal law.

a. ***The filing of a large number of complaints against the same person and/or anonymous and unfounded complaints***

155. One of the main patterns of criminalization consists of filing multiple complaints against the same person, sometimes for the same or similar acts. This would result in a disproportionate personal, financial, and professional burden in terms of legal defense in each case, and would increase the chances of prosecution.<sup>284</sup>

156. In many cases, these complaints are anonymous and unfounded, and are used as a tool for pressure, harassment, and intimidation, since, instead of being dismissed in limine by the Public Prosecutor's Office, they remain active indefinitely. As an example, the presiding judge of the TSE told the IACtHR that she was facing up to 34 cases opened by the FECI, which would reflect a broader pattern of criminalization affecting the entire body. The Commission also heard

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<sup>283</sup> PDH, ["The Human Rights Ombudsman presents the 2024 Detailed Annual Report to government institutions, civil society, and international cooperation agencies,"](#) April 2, 2025.

<sup>284</sup> Cf. Report of the Mission of Judges of the Latin American Federation of Magistrates and the International Union of Magistrates, ["Attacks on Judicial Independence in Guatemala,"](#) October 2022, pp. 6 and 7; Cyrus R. Vance Center for International Justice, ["The Criminalization of Justice Operators in Guatemala, a Strategy to Ensure Impunity,"](#) December 2022, p. 23.

of cases of justice operators facing between 30 and 100 cases in retaliation for performing their duties.<sup>285</sup>

***b. Judicial proceedings based on unfounded and disproportionate charges***

157. The use of open-ended, ambiguous, or clearly inadmissible criminal charges for the acts reported is another pattern that characterizes the arbitrary use of criminal law. For example, individuals who are not public officials have been investigated for crimes specific to officials, such as "abuse of authority".<sup>286</sup> Likewise, defense attorneys have been charged with the crime of "obstruction of justice" simply for doing their job, while members of indigenous communities are commonly charged with the crimes of "usurpation," "aggravated usurpation," and "usurpation of protected areas for inhabiting their ancestral territories".<sup>287</sup>

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285 For example, in May 2022, the Public Prosecutor's Office indicated in a public statement that, according to the records of the Public Prosecutor's Office's Computerized Investigation Control System, former Attorney General Thelma Aldana had more than 30 complaints under investigation; former judge Erika Aifán had 29 complaints; former prosecutor Juan Francisco Sandoval had 58 complaints; and prosecutors Andrei Vladimir González and Rudy Herrera Lemus had 9 and 6 complaints against them, respectively, Office of the Public Prosecutor, [press release](#) of May 5, 2022; In the case of former judge Erika Aifán, according to civil society organizations, she has accumulated more than 100 proceedings, including complaints, administrative complaints, and requests for preliminary hearings. Report of the Mission of Judges of the Latin American Federation of Magistrates and the International Union of Magistrates, "[Attacks on Judicial Independence in Guatemala](#)," October 2022, pp. 6 and 7; Cyrus R. Vance Center for International Justice, "[The Criminalization of Justice Operators in Guatemala, a Strategy to Ensure Impunity](#)," December 2022, p. 23.

286 Meetings of the IACHR with civil society organizations and justice operators held on July 22, 2024, in Guatemala City; with criminalized defenders and justice operators; and with human rights defenders in Guatemala City on July 24, 2024.

287 IACHR, Meeting with ancestral authorities in Xelá, Quetzaltenango, held as part of the on-site visit to Guatemala, July 23, 2024; Report of the Independent Delegation of International Lawyers to Guatemala, "[We are not usurpers, this is our land": Agrarian conflict and the rights of indigenous peoples in Alta Verapaz](#)," September 2023, para. 57; Due Process of Law Foundation, Briefing on the human rights situation in Guatemala for the on-site visit of the Inter-American Commission on Human Rights, July 2024, on file with the IACHR.

158. Along the same lines, the Vance Center for International Justice has documented that the crimes used against justice operators for their independent work include: abuse of authority, breach of duty, conspiracy, influence peddling, unlawful association, obstruction of justice, simulation of crime, activities against national security, illegal detentions, malfeasance, and resolutions that violate the Constitution.<sup>288</sup>
159. Among the cases documented in the field, the IACtHR received information on the application of the Law against Organized Crime to cancel the Semilla party and criminally prosecute its members. For her part, Sebastiana Pablo, a Mayan leader from the municipality of Joyabaj, spent more than ten months in preventive detention after being accused of sedition for denouncing acts of corruption by the municipal mayor's office.<sup>289</sup>
160. During the visit to Totonicapán and Sololá, Luis Pacheco, then a member of the Board of Directors of 48 Cantones de Totonicapán, informed the IACtHR that indigenous leaders were facing criminal proceedings for leading social mobilizations called to defend the sovereign will of the population expressed in the elections.<sup>290</sup> While preparing this report, on April 23, 2025, the IACtHR learned of his arrest, along with Héctor Manuel Chaclán—former treasurer of the Board of Directors of the 48 Cantons—for the crimes of unlawful association, sedition, terrorism, obstruction of criminal proceedings, and obstruction of justice. According to the MP, they allegedly led the blockades in 2023 with the aim of taking control of the institution's headquarters. In addition, it noted that there were three other arrest warrants against indigenous authorities issued by a competent judge

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<sup>288</sup> Cyrus R. Vance Center for International Justice, "[The criminalization of justice operators in Guatemala, a strategy to ensure impunity](#)," December 2022, p. 31.

<sup>289</sup> Cf. Ruda, "[In Joyabaj, Quiché, two criminalized women fight to prove their innocence](#)," July 1, 2022; IM-Defensoras, "[Sebastiana Pablo Hernández, Mayan K'iche' leader, criminalized for her human rights work and in preventive detention since October 2020](#)," August 13, 2021; also IACtHR, [Regional hearing: Right to reintegration of women deprived of liberty](#), February 29, 2024.

<sup>290</sup> Meetings of the IACtHR with civil society organizations and indigenous peoples in Quetzaltenango, Sololá, and Totonicapán on July 23, 2024.

and that the investigation would remain under judicial reserve.<sup>291</sup> On August 28, 2025, Esteban Toc Tzay, deputy mayor and indigenous authority of Sololá, was also arrested in connection with this case.<sup>292</sup>

161. Following the visit, on August 13, 2025, the IACtHR learned of the arrest of lawyer Leocadio Juracán, leader of the Altiplano Peasant Committee (CCDA), for crimes against the nation's natural and cultural heritage, aggravated trespassing, use and sale of forest products without the proper documentation, and forest fires, which would constitute retaliation for his work in defense of human rights and territory.<sup>293</sup>

**c. *Abusive use of pretrial detention***

162. During its visit to the country, the IACtHR observed that criminalization is also manifested through the abusive use of pretrial detention, applied for excessive periods, beyond the term recognized in national legislation or without respecting the principles of necessity and proportionality.<sup>294</sup> In addition, it was informed of the impossibility of accessing alternative measures, due to the

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<sup>291</sup> Information provided to the IACtHR in the context of the request for a hearing on “Persecution and criminalization of Indigenous and Ancestral Authorities for the legitimate exercise of their rights and the defense of democracy in Guatemala,” on file with the IACtHR; see also: IACtHR, Press release no. 080-2025, [“Guatemala: IACtHR rejects criminal prosecution of indigenous leaders who defended democracy.”](#) April 26, 2025.

<sup>292</sup> Prensa Comunitaria, [“Esteban Toc, former indigenous deputy mayor of Sololá, arrested.”](#) August 28, 2025.

<sup>293</sup> Prensa Libre, [“Former deputy Leocadio Juracán, accused of usurpation, arrested at La Aurora Airport.”](#) August 13, 2025; Prensa Comunitaria, [“Leocadio Juracán, peasant leader and former deputy, arrested.”](#) August 13, 2025.

<sup>294</sup> Meetings of the IACtHR with civil society organizations and justice operators held on July 22, 2024, in Guatemala City; with criminalized defenders and justice operators; and with human rights defenders in Guatemala City on July 24, 2024.

imposition of million-dollar bail or the formulation of charges that do not allow for release during the proceedings.<sup>295</sup>

163. Along the same lines, the United Nations Special Rapporteur on the independence of judges and lawyers, following her visit to Guatemala, confirmed that release pending trial "would appear to be the exception rather than the rule".<sup>296</sup> In this regard, she noted that many people remain in detention for months before their first court hearing, contrary to the law.<sup>297</sup> Furthermore, she warned that individuals accused of non-violent or minor crimes—who should legally be eligible for alternative measures—remain in prison for periods ranging from several months to years.<sup>298</sup> These prolonged detentions "have become the norm in cases of criminalization".<sup>299</sup> According to her, judges justify this practice by invoking a jurisprudential mechanism called "provisional detention," which has no basis in Guatemalan positive law. She noted that the CC stated that it cannot overturn this practice because it does not formally exist in law, which would represent "an apparent abdication of its duty to safeguard constitutional rights".<sup>300</sup>

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295 Meetings of the IACtHR with civil society organizations and justice operators held on July 22, 2024, in Guatemala City; with criminalized defenders and justice operators; and with human rights defenders in Guatemala City on July 24, 2024; Meeting with ancestral authorities in Xelá, Quetzaltenango, held as part of the on-site visit to Guatemala, July 23, 2024.

296 Special Rapporteur on the independence of judges and lawyers, [Visit to Guatemala, May 12-23, 2025, Preliminary observations](#), March 23, 2025, p. 8.

297 Special Rapporteur on the independence of judges and lawyers, [Visit to Guatemala, May 12-23, 2025, Preliminary observations](#), March 23, 2025, p. 8.

298 Special Rapporteur on the independence of judges and lawyers, [Visit to Guatemala, May 12-23, 2025, Preliminary observations](#), March 23, 2025, p. 8.

299 Special Rapporteur on the independence of judges and lawyers, [Visit to Guatemala, May 12-23, 2025, Preliminary observations](#), March 23, 2025, p. 8.

300 Special Rapporteur on the independence of judges and lawyers, [Visit to Guatemala, May 12-23, 2025, Preliminary observations](#), March 23, 2025, p. 8.

164. In accordance with inter-American jurisprudence, the IACtHR recalls that pretrial detention is the most severe measure that can be applied during criminal proceedings against a person accused of a crime, which is why its application must be exceptional and can only be justified in cases of duly proven risk of flight or obstruction of the investigation. The use of pretrial detention is limited by the principles of legality, presumption of innocence, necessity, and proportionality, which are indispensable in a democratic society.<sup>301</sup> These principles must be respected both by the judge, when making a decision, and by the Public Prosecutor's Office, when requesting the measure. Similarly, if internal regulations are not observed when depriving a person of their liberty, such deprivation will be illegal and contrary to the American Convention.<sup>302</sup>

***d. Violations of due process and the right to defense***

165. The IACtHR identified a set of practices that violate due process and are intended to hinder the defense of criminalized persons. Among these, the arbitrary delay of criminal proceedings due to the failure of the Public Prosecutor's Office to appear at hearings and the unjustified absence of the judges in charge of the cases stand out. The IACtHR was also informed of the improper and recurrent use of "judicial confidentiality" to prevent the defense from accessing case files and to restrict access to hearings by both the press and independent observers.<sup>303</sup>

166. The IACtHR also received information about undue pressure exerted on defendants to accept charges in the face of imminent loss of

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<sup>301</sup> Cf. Inter-American Court of Human Rights, Case of Acosta Calderón v. Ecuador, Merits, Reparations and Costs, Judgment of June 24, 2005, Series C No. 129, para. 74.

<sup>302</sup> See Inter-American Court of Human Rights, Case of Chaparro Álvarez and Lapo Íñiguez v. Ecuador, Preliminary Objections, Merits, Reparations and Costs, Judgment of November 21, 2007, Series C No. 170, para. 69.

<sup>303</sup> IACtHR, 186th Regular Session, "Threats to Judicial Independence in Central and South America," March 10, 2023; Annex to request for thematic hearing "Instrumentalization of the Public Prosecutor's Office and Political Persecution in Guatemala," August 10, 2023, on file with the IACtHR.

liberty. In this regard, the IACtHR agrees with the Special Rapporteur on the independence of judges and lawyers that this criminal concept functions as a tool of coercion in the context of criminalization, since individuals facing charges of serious and disproportionate crimes would accept a reduced sentence in exchange for a guilty plea, leading to forced confessions and convictions without proper evidentiary analysis.<sup>304</sup> In turn, these would be the basis for fabricating new accusations in the context of judicial investigations manipulated by the Public Prosecutor's Office against justice operators and political leaders.

167. For example, Eduardo Masaya and Jorge Santos Neill, linked to the Corrupción Semilla case, publicly denounced having been subjected to arbitrary transfers, including to maximum security centers, as a means of pressuring them to accept charges. These measures coincided with relevant court hearings and were accompanied by harassment and pressure from Judge Fredy Orellana and other authorities, with the aim of instilling fear and causing physical and psychological distress.<sup>305</sup> In the case of Mr. Masaya, the judge repeatedly denied him alternative measures and ordered his transfer to three prisons, keeping him in pretrial detention for six months despite being charged with a minor offense and with no legal impediment to granting him house arrest.<sup>306</sup> For his part, Jorge Santos Neill refused to accept charges in the face of pressure from the FCEI to present him as an effective collaborator; as a

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<sup>304</sup> Special Rapporteur on the Independence of Judges and Lawyers, [Visit to Guatemala, May 12-23, 2025, Preliminary Observations](#), March 23, 2025, p. 8.

<sup>305</sup> EP Investiga, “Eduardo Masaya: [‘This apparatus can no longer bear the weight of its own corruption, which is why it represses and persecutes’](#),” July 29, 2025; Ruda, [“Eduardo Masaya: Criminalization seeks to make us afraid to organize”](#), August 25, 2025; Prensa Comunitaria, [“Semilla Case: Eduardo Masaya and Jorge Santos Neil return to Mariscal Zavala”](#), July 21, 2025.

<sup>306</sup> EP Investiga, “Eduardo Masaya: [‘This apparatus can no longer bear the weight of its own corruption, which is why it represses and persecutes’](#),” July 29, 2025; Ruda, [“Eduardo Masaya: Criminalization seeks to make us afraid to organize”](#), August 25, 2025; Prensa Comunitaria, [“Semilla Case: Eduardo Masaya and Jorge Santos Neil return to Mariscal Zavala”](#), July 21, 2025.

consequence, he also faced reprisals during his detention, including his transfer to the Preventive Detention Center for Men in Zone 18.<sup>307</sup>

168. The State of Guatemala acknowledged the persistence of evidence of misuse of the criminal justice system, characterized by certain patterns such as the withholding of cases, the excessive use of pretrial detention, the repeated suspension of hearings, and the refusal of judicial bodies to allow its intervention in proceedings that could affect the interests of the State.<sup>308</sup> It also informed the IACtHR that, in cases where there are indications of possible misuse of criminal law to criminalize, the PGN conducts analyses and issues objective statements in court hearings, prioritizing the effective protection of the human rights of the accused. It highlighted the implementation of technical reports, in coordination with its International Affairs Unit, to assess risks of possible international responsibility of the State.<sup>309</sup>
169. The IACtHR recalls that the State's power to investigate unlawful acts cannot be used as a mechanism to persecute those who exercise their rights or participate in civic space. Particularly in the context of widespread criminalization in Guatemala, the State has enhanced obligations to protect that limit the arbitrary use of punitive power. In this regard, the Inter-American Court has indicated that these obligations include: identifying legal provisions that are used selectively or repeatedly to persecute and punish the legitimate exercise of rights, as well as those whose ambiguous wording may

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<sup>307</sup> La Hora, ["Every day my life is in danger, said Jorge Santos Neill after being transferred to another prison,"](#) May 21, 2025.

<sup>308</sup> State of Guatemala, Note Verbale OEA-M4-NV-052-2025 on supplementary information related to the on-site visit to Guatemala, March 12, 2025, COPADEH, Supplementary and updated information on the on-site visit of the Inter-American Commission on Human Rights to Guatemala, carried out during the month of July 2024.

<sup>309</sup> State of Guatemala, Note Verbale OEA-M4-NV-052-2025 on supplementary information related to the on-site visit to Guatemala, March 12, 2025, COPADEH, Supplementary and updated information on the on-site visit of the Inter-American Commission on Human Rights to Guatemala, carried out during the month of July 2024.

have an intimidating or inhibiting effect. Likewise, States must review the conformity of such norms with international conventions and, when necessary, adopt legislative or administrative reforms to modify or repeal them; establish procedures to quickly dismiss judicial or administrative actions intended solely to intimidate or silence; and undertake training and capacity-building efforts aimed especially at the competent police and judicial authorities with the aim of preventing and avoiding forms of judicial harassment.<sup>310</sup>

170. The following section describes how this instrumentalization of the justice system has affected different social groups and sectors in Guatemala in a differentiated and disproportionate manner.

## **B. Main groups targeted for criminalization**

171. During its visit, the IACtHR observed that arbitrary criminal prosecution has spread to include justice operators, lawyers exercising their legal defense, and plaintiffs in relevant corruption cases. Similarly, members of indigenous and peasant communities and trade unions; people who participated or participate in peaceful protests and social mobilizations in defense of democracy; journalists and media workers; public officials; the former human rights ombudsman; and even the President and Vice President of the Republic have been affected.

### **1. Justice operators**

172. In recent years, the IACtHR has documented the systematic use of criminal law, as well as a context of harassment and threats against justice operators identified as independent for their work in emblematic cases of corruption and serious human rights violations.<sup>311</sup>

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<sup>310</sup> Inter-American Court of Human Rights, Advisory Opinion OC-32/25, Climate Emergency and Human Rights, May 29, 2025, para. 587.

<sup>311</sup> IACtHR, [Annual Report 2021. Chapter IV.B Guatemala](#), OEA/Ser.L/V/II. Doc. 64 rev. 1, May 26, 2022, para. 66 et seq; IACtHR, [Annual Report 2022. Chapter IV.B Guatemala](#), OAS/Ser.L/V/II. Doc. 50 rev. 1, April 1, 2023, para. 50 y ss.

173. According to information provided to the IACtHR, the abusive use of criminal law intensified after the departure of the CICIG, targeting justice operators who were investigated and charged for alleged crimes committed in the exercise of their duties. Many of them were part of CICIG and FECI. Former judges and prosecutors in charge of cases related to the internal armed conflict or high-level corruption schemes, including in high-risk courts, find themselves in the same situation.<sup>312</sup>
174. During the visit to the country, various members of the judiciary and their defense attorneys told the IACtHR that criminalization continues and emphasized that reprisals against those who exercise their judicial functions independently have not ceased. According to the information received, at least 50 members of the judiciary have gone into exile due to criminal persecution and 20 have been arbitrarily deprived of their liberty. Among them is former prosecutor Stuardo Campo, whom the IACtHR visited during his detention.<sup>313</sup>
175. In particular, judges informed the IACtHR of the existence of unfounded criminal complaints, internal pressure from the Supreme Court of Justice, arbitrary disciplinary proceedings, and transfers in retaliation for issuing rulings contrary to the interests of powerful groups.<sup>314</sup> In this regard, they maintained that the judicial career system has been co-opted, limiting the possibilities of promotion and appointment to the judiciary for judges with an independent profile, who are systematically excluded from the selection process.<sup>315</sup> As one trial judge stated: "All independent judges are barred from promotion. The state's attitude toward weakening judicial

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<sup>312</sup> Meetings of the IACtHR with civil society organizations and justice operators held on July 22, 2024, in Guatemala City; with criminalized defenders and justice operators; and with human rights defenders in Guatemala City on July 24, 2024.

<sup>313</sup> Census of justice operators in exile from Guatemala as of July 2024, prepared by former justice operators, on file with the IACtHR.

<sup>314</sup> IACtHR meeting with justice operators held on July 22, 2024.

<sup>315</sup> IACtHR meeting with justice operators held on July 22, 2024.

independence has become clear.”<sup>316</sup> They also reported that, in addition to institutional reprisals, they face threats, harassment, and public stigmatization, even being labeled as “terrorists” or “communists.” Several reported adverse effects on their families and their physical and emotional health.<sup>317</sup>

176. In this context, the IACtHR has extensively documented various cases of exile and forced resignations of judges who have been criminalized for the independent exercise of their judicial duties in high-impact cases or cases involving serious human rights violations.<sup>318</sup> Among them are Judge Gloria Porras<sup>319</sup> and High Risk

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<sup>316</sup> Meeting of the IACtHR with justice operators held on July 22, 2024.

<sup>317</sup> Meeting of the IACtHR with justice operators held on July 22, 2024.

<sup>318</sup> Meeting of the IACtHR with the Guatemalan Association of Judges for Integrity held on July 22, 2024.

<sup>319</sup> Situation of Judge Gloria Porras of the Constitutional Court of Guatemala. Meeting held on April 28, 2021, between the IACtHR, the Human Rights Ombudsman, Judge Gloria Porras, and civil society organizations, on file with the IACtHR; IACtHR, [Annual Report 2021. Chapter IV.B Guatemala](#), OEA/Ser.L/V/II. Doc. 64 rev. 1, May 26, 2022, para. 47 et seq.

Judges Miguel Ángel Gálvez<sup>320</sup>, Erika Lorena Aifán<sup>321</sup>, and Carlos Giovanni Ruano.<sup>322</sup> In 2022, Judge Pablo Xitumul was stripped of

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320 On November 15, 2022, former judge Miguel Ángel Gálvez resigned from his position and announced his departure from the country following various threats and preliminary proceedings brought against him in connection with his work in adjudicating the “Diario Militar” case, cf. IACtHR, [Annual Report 2022. Chapter IV.B Guatemala](#), OAS/Ser.L/VII. Doc. 50 rev. 1, April 1, 2023, para. 104; In its September 2022 resolution on Provisional Measures and Supervision of Compliance with the Judgment in the Case of Gudiel Álvarez et al. (“Diario Militar”) v. Guatemala, the Inter-American Court of Human Rights found that, for years, criminal law had been used as a mechanism to intimidate Judge Miguel Ángel Gálvez in his work. As a result, in addition to facing an intimidating effect derived from the complaints against him, Judge Gálvez had been forced to devote time and resources to dealing with the high and constant number of criminal complaints. See Inter-American Court of Human Rights, Case of Gudiel Álvarez et al. (“Diario Militar”) v. Guatemala, Provisional Measures and Supervision of Compliance with the Judgment, Resolution of the Inter-American Court of Human Rights of September 9, 2022, para. 99.

321 In March 2022, she was forced to resign from her position and leave the country as a result of threats and requests for impeachment against her. In 2022, she was denounced by members of the Board of Directors of the Institute of Magistrates of the Court of Appeals due to her authorization of certain proceedings in the “Parallel Commissions 2020” case, referring to the election process of the Court itself. Likewise, in February, the newspaper El Faro published that, in one of the cases she was investigating, a witness accused the President of having financed his election campaign with \$2.6 million from alleged bribes from construction companies. As a result of that case, the Attorney General's Office brought seven preliminary hearings against her. See IACtHR, [Annual Report 2022. Chapter IV.B Guatemala](#), OEA/Ser.L/VII. Doc. 50 rev. 1, April 1, 2023, para. 104.

322 In November, the SCJ processed a preliminary hearing request against her filed by the Foundation Against Terrorism, in response to a complaint filed years earlier by Judge Ruano against Judge Blanca Stalling for the crime of influence peddling, which was dismissed and the judge reinstated to the SCJ. According to public information, this complaint was due to the fact that the magistrate summoned the judge to her office to discuss aspects of a case against her son Otto Fernando Molina Stalling and to advocate for him, since the judge would be hearing the case in court. As a result of this complaint, the magistrate was prosecuted for influence peddling, because the judge recorded the conversation with the official to have proof that he had been summoned to the meeting and that at no time did he compromise his work or accept what she proposed. Report of the Mission of Judges of the Latin American Federation of Magistrates and the International Union of Magistrates, “[Attacks on Judicial Independence in Guatemala](#),” October 2022, p. 9.

his immunity.<sup>323</sup> Similarly, it has monitored the continued harassment and criminalization of former Attorneys General Thelma Aldana<sup>324</sup> and Claudia Paz y Paz, who remain outside the country.<sup>325</sup>

177. Judges who remain in the country, such as Ana Vilma Díaz, Wendy Yaneth Coloma, Verónica Elizabeth Ruiz, and Dinora Benita Martínez, face threats and various preliminary proceedings that seek to strip them of their immunity.<sup>326</sup> Similarly, the Guatemalan Association of Judges for Integrity informed the IACtHR about the reprisals and threats faced by its members for taking action in defense of judicial independence and providing support to criminalized judges, including Judge Jorge Haroldo Vásquez Flores, founder of the Association.<sup>327</sup>
178. Furthermore, the magistrates of the Supreme Electoral Tribunal informed the IACtHR of the criminal proceedings brought against them by the Public Prosecutor's Office in the context of the 2023 electoral process, for having guaranteed democratic alternation and

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323 On February 8, 2022, the SCJ upheld a request for a preliminary hearing and suspension of Judge Xitumul, who ruled on important cases of transitional justice and corruption, such as: "Ixil genocide," Molina Theissen, and "Agua mágica," in which former Vice President Roxana Baldetti was convicted of corruption. Civil society organizations denounced the preliminary hearing as retaliation for his work. Civil society organizations denounced at the Public Hearing on Compliance with the Judgment in the Case of Molina Theissen v. Guatemala that the preliminary hearing against Judge Xitumul is part of efforts to perpetuate impunity in that case. See: WOLA, [Summaries of cases of serious human rights violations committed during the internal armed conflict before the courts of Guatemala](#), updated to 2022; Cf. IACtHR, [Annual Report 2022. Chapter IV.B Guatemala](#), OEA/Ser.L/V/II. Doc. 50 rev. 1, April 1, 2023, para. 104.

324 In 2022, the IACtHR reported that Thelma Aldana had more than 30 complaints against her under investigation. Cf. IACtHR, [Annual Report 2022. Chapter IV.B Guatemala](#), OEA/Ser.L/V/II. Doc. 50 rev. 1, April 1, 2023, para. 39.

325 For example, see: CEJIL, ["CEJIL rejects the criminalization of former Guatemalan Attorney General Claudia Paz y Paz,"](#) June 10, 2022; Prensa comunitaria, ["Complaint against Claudia Paz y Paz and Elena Sut, an act of intimidation without legal basis,"](#) June 9, 2022; Cf. IACtHR, [Annual Report 2022. Chapter IV.B Guatemala](#), OEA/Ser.L/V/II. Doc. 50 rev. 1, April 1, 2023, para. 56.

326 Meeting of the IACtHR with the Guatemalan Association of Judges for Integrity held on July 22, 2024.

327 Meeting of the IACtHR with the Guatemalan Association of Judges for Integrity held on July 22, 2024.

the inauguration of the new authorities.<sup>328</sup> The presiding judge of the TSE noted that investigations related to the 2023 elections remain open, creating a climate of intimidation, including arrest warrants and criminal proceedings.<sup>329</sup> She indicated that the functional independence of the TSE is limited by its budgetary dependence on the Congress, and emphasized the need for structural reform to guarantee its autonomy and prevent future interference in democratic processes.<sup>330</sup>

179. The IACtHR also held meetings with former Guatemalan justice operators who are in exile due to criminal persecution and who could not be interviewed in the country due to the risk of detention, which highlights the seriousness of their situation.<sup>331</sup> Among other things, they reported patterns of criminalization through unfounded criminal proceedings, institutional harassment, stigmatization, direct threats, and even deprivation of liberty.<sup>332</sup> Several of them still face active arrest warrants, threats of international arrest warrants, as well as multiple criminal cases under reserve, without access to the files or minimum guarantees of defense.<sup>333</sup>
180. In addition to criminalization, those in exile reported restrictions on obtaining identity documents and passports, which exacerbates their lack of protection and affects their physical and emotional health. They also reported that the Attorney General's Office had supported the illegal actions of the Public Prosecutor's Office until the new government took office. However, they believe that the executive branch must take a firm stance in defense of judicial independence, promote concrete actions to end arbitrary criminal

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<sup>328</sup> Meeting between the IACtHR and the Supreme Electoral Tribunal held on July 25, 2024.

<sup>329</sup> Meeting between the IACtHR and the Supreme Electoral Tribunal held on July 25, 2024.

<sup>330</sup> Meeting between the IACtHR and the Supreme Electoral Tribunal held on July 25, 2024.

<sup>331</sup> Meeting between the IACtHR and justice operators in exile held on June 20, 2024.

<sup>332</sup> Meeting of the IACtHR with justice operators in exile held on June 20, 2024.

<sup>333</sup> Meeting of the IACtHR with justice operators in exile held on June 20, 2024.

prosecution, and guarantee dignified conditions for the safe return of those in exile.<sup>334</sup> In this regard, the Guatemalan government stated that security measures have been implemented in favor of four families of exiled persons with precautionary measures granted by the IACHR. However, no disaggregated information on exiled persons was provided.<sup>335</sup>

181. The Commission recalls that guarantees of independence and impartiality for justice operators are an essential condition for the proper performance of their duties.<sup>336</sup> Likewise, the State has a duty to protect justice operators from attacks, acts of intimidation, threats, and harassment, investigating those who commit violations against their rights and effectively punishing them. As the IACHR has emphasized, if the State does not guarantee the safety of its justice operators against all kinds of external pressures, including reprisals directly aimed at attacking them and their families, the exercise of judicial functions can be seriously affected, frustrating access to justice.<sup>337</sup> In Guatemala, the criminalization, arbitrary use of criminal law, and forced exile of independent judges and prosecutors have not only affected their individual rights, but have also resulted in the deterioration of the legitimacy of and public confidence in the justice system.

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<sup>334</sup> Meeting of the IACHR with justice operators in exile held on June 20, 2024.

<sup>335</sup> State of Guatemala, Note Verbale OEA-M4-NV-052-2025 on supplementary information related to the on-site visit to Guatemala, March 12, 2025, COPADEH, Supplementary and updated information on the on-site visit of the Inter-American Commission on Human Rights to Guatemala, carried out during the month of July 2024.

<sup>336</sup> IACHR, [Guarantees for the Independence of Justice Operators: Towards Strengthening Access to Justice and the Rule of Law in the Americas](#), OEA/Ser.L/V/II. Doc.44, December 5, 2013. IACHR, [Second Report on the Situation of Human Rights Defenders in the Americas](#), OEA/Ser.L/V/II. Doc. 66, December 31, 2011, para. 385.

<sup>337</sup> IACHR, [Guarantees for the Independence of Justice Operators: Towards Strengthening Access to Justice and the Rule of Law in the Americas](#), OEA/Ser.L/V/II. Doc.44, December 5, 2013. IACHR, [Second Report on the Situation of Human Rights Defenders in the Americas](#), OEA/Ser.L/V/II. Doc. 66, December 31, 2011, para. 385.

182. The IACHR urges Guatemala to adopt all necessary measures to guarantee conditions of security and autonomy for those who make up the justice system, as well as an environment free from external interference. It also calls for conditions to be guaranteed for the voluntary, safe, and dignified return of justice operators who are in exile as a result of their work. These measures are essential to restore the independence, integrity, and legitimacy of the judiciary and the Public Prosecutor's Office, as fundamental pillars for the consolidation of the rule of law and democracy.

## 2. Human rights defenders

183. During its visit, the Commission found that human rights defenders face a serious context of criminalization.<sup>338</sup> According to the testimonies received, in Guatemala the judicial system acts swiftly and severely when it comes to prosecuting human rights defenders, but shows a lack of response to crimes committed against them, highlighting what they describe as selective justice.<sup>339</sup> In this regard, data from the OHCHR indicate that in 2023 there were 95 cases of criminalization<sup>340</sup>; in 2022 there were 47 cases, representing an increase of 54.34% over the previous year, in which 25 cases were documented.<sup>341</sup>

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<sup>338</sup> IACHR, Meeting with civil society organizations of women and LGBTI persons held in the context of the on-site visit to Guatemala, July 22, 2024, on file with the IACHR; Meeting with civil society organizations on indigenous peoples and Afro-descendants held in the context of the on-site visit to Guatemala, July 22, 2024, on file with the IACHR; Meeting with communities of the Maya Q'eqchi' Poqomchi' Chirretzaaj people, Cobán, Alta Verapaz, held as part of the on-site visit, July 23, 2024; Meeting with ancestral authorities, Sololá, July 23, 2024.

<sup>339</sup> IACHR, Meeting with civil society organizations on indigenous peoples and Afro-descendants held as part of the on-site visit to Guatemala, July 22, 2024, on file with the IACHR; IACHR, Public Hearing "[Guatemala: Human Rights Defenders and Justice Operators Facing the Criminal Justice System](#)," held during the 188th Session, November 9, 2023.

<sup>340</sup> United Nations, [Situation of Human Rights in Guatemala 2022, Report of the United Nations High Commissioner for Human Rights](#), AHRC/52/23, January 26, 2023, para. 14.

<sup>341</sup>United Nations, [Situation of human rights in Guatemala 2022, Report of the United Nations High Commissioner for Human Rights](#), AHRC/52/23, January 26, 2023, para. 72.

184. The IACtHR observes that, although criminalization affects defenders in various fields<sup>342</sup>, this practice is most intense against indigenous persons and communities, as well as those who defend land, territory, and the environment.
185. Since its 2017 report, the IACtHR has warned about a sustained practice by Guatemalan authorities of bringing criminal charges against community leaders, accusing them of crimes such as trespassing and aggravated trespassing.<sup>343</sup> The Commission notes with concern that this practice not only persists but has intensified in recent years.<sup>344</sup> Particularly alarming is the role that the Public Prosecutor's Office, through the Special Prosecutor's Office for Crimes of Trespassing, has played in these proceedings. According to Peace Brigades International (PBI), between 2020 and 2021, the Public Prosecutor's Office received more than 3,000 complaints related to the crime of usurpation.<sup>345</sup> These complaints are allegedly

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<sup>342</sup> IACtHR, Meeting with civil society organizations of women and LGBTI persons held in the context of the on-site visit to Guatemala, July 22, 2024, on file with the IACtHR; Meeting with civil society organizations on indigenous peoples and Afro-descendants held in the context of the on-site visit to Guatemala, July 22, 2024, on file with the IACtHR; Meeting with communities of the Maya Q'eqchi' Poqomchi' Chirretzaaj people, Cobán, Alta Verapaz, held during the on-site visit, July 23, 2024; Meeting with ancestral authorities, Sololá, July 23, 2024.

<sup>343</sup> IACtHR, [Situation of Human Rights in Guatemala](#), OEA/Ser.L/V/II. Doc. 208/17, December 31, 2017, para. 218.

<sup>344</sup> IACtHR, Public hearing "[Guatemala: Forced internal displacement of indigenous and peasant communities](#)" held during the 190th Session, July 12, 2024; PBI Guatemala, Criminalization of Human Rights Defenders, Patterns of Misuse of Criminal Law against Defenders Accompanied by Peace Brigade International (PBI) Guatemala, received on June 6, 2024, on file with the IACtHR; Due Process of Law Foundation (DPLF), [Guatemala: Judicial kleptocracy at war with indigenous peoples](#), August 6, 2024; PBI Guatemala, Response to the IACtHR consultation questionnaire, received on December 11, 2023, on file with the IACtHR.

<sup>345</sup> Peace Brigades International (PBI), Information submitted to the IACtHR, on file; PBI Guatemala, Response to the IACtHR consultation questionnaire for the preparation of the third report on the situation of human rights defenders in the Americas, received on December 11, 2023, on file with the IACtHR.

being used as a legal basis to carry out forced and immediate evictions of indigenous communities from their territories.<sup>346</sup>

186. Along the same lines, since 2018, the United Nations Special Rapporteur on the rights of indigenous peoples has noted that "in most cases, the underlying cause is the lack of security of land tenure for indigenous communities. Criminalization has led to increased social tensions and mistrust of the justice system among indigenous peoples".<sup>347</sup> Likewise, Special Rapporteur identified the recurrent use of serious charges of aggravated trespassing, unlawful association, kidnapping, and murder, many of which do not allow for alternative measures to imprisonment.<sup>348</sup>
187. In the different territories visited, the IACtHR received testimonies from indigenous people who were criminally prosecuted for defending their ancestral territories, who pointed out that entire communities have been criminalized. In Alta Verapaz, there are reportedly more than 90 arrest warrants for the crime of trespassing against entire communities.<sup>349</sup> They also reported on the effects of prolonged criminal proceedings without a verdict, the disproportionate application of pretrial detention or million-dollar bail,

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<sup>346</sup> IACtHR, Meeting with ancestral authorities in Xelá, Quetzaltenango, held during the on-site visit to Guatemala, July 23, 2024; Report of the Independent Delegation of International Lawyers to Guatemala, "[We are not usurpers, this is our land": Agrarian conflict and the rights of indigenous peoples in Alta Verapaz](#)", September 2023, para. 57; Due Process of Law Foundation, Briefing on the human rights situation in Guatemala for the on-site visit of the Inter-American Commission on Human Rights, July 2024, on file with the IACtHR.

<sup>347</sup> Human Rights Council, [Report of the Special Rapporteur on the rights of indigenous peoples on her visit to Guatemala](#), AHRC/39/17/Add.3, August 10, 2018, p. 10.

<sup>348</sup> Human Rights Council, [Report of the Special Rapporteur on the rights of indigenous peoples on her visit to Guatemala](#), AHRC/39/17/Add.3, August 10, 2018, pp. 10 and 11.

<sup>349</sup> Meeting with civil society organizations, Alta Verapaz, July 23, 2024. Information received during the IACtHR's on-site visit to Guatemala. IACtHR archives.

restrictions on the right to defense, and the lack of a gender and intercultural perspective in the proceedings.<sup>350</sup>

188. Among others, the IACHR heard the case of ten people who have been facing criminal proceedings since 2019 for resisting extractive projects.<sup>351</sup> Similarly, the IACHR was informed about the criminalization of Rosa Ich Xi, Angelina Coy Choc, and Olivia Mucu, members of the Semuy II community, who were sentenced to 75 years in prison for their alleged participation in the murder of three members of the army, in retaliation for their opposition to the activities of a palm oil company in their territories.<sup>352</sup>
189. In El Estor, the Commission was informed of arrest warrants against 34 people and another 48 facing eviction orders.<sup>353</sup> On the south coast, 16 leaders have been criminalized for defending community lands.<sup>354</sup> For its part, the National Space of Ancestral Indigenous Authorities of Iximulew reported that it has recorded the criminalization of more than 600 indigenous leaders and authorities from the Maya Kaqchikel peoples of San Juan Sacatepéquez; Mam of Malacatán and San Pablo, department of San Marcos; Quiche of Retalhuleu and Quetzaltenango; Maya Ixil, among others.<sup>355</sup>

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<sup>350</sup> Meetings of the IACHR with civil society organizations held on July 22, 2024, in Guatemala City; with civil society organizations and indigenous peoples in Quetzaltenango, Sololá, and Totonicapán on July 23, 2024; with indigenous peoples in Alta Verapaz on July 23, 2024; with criminalized defenders and justice operators; and with human rights defenders in Guatemala City on July 24, 2024.

<sup>351</sup> Meeting with civil society organizations, Guatemala City, July 22, 2024. Information received during the IACHR's on-site visit to Guatemala. IACHR archives.

<sup>352</sup> See Guatemala Human Rights Commission, Submission of information on the human rights situation in Guatemala in the context of the on-site visit, in the IACHR archives.

<sup>353</sup> Meeting with civil society organizations, Izabal, July 24, 2024. Information received during the IACHR's on-site visit to Guatemala. IACHR archives.

<sup>354</sup> Meeting with civil society organizations, Sololá, July 23, 2024. Information received during the IACHR's on-site visit to Guatemala. IACHR archives.

<sup>355</sup> National Space of Ancestral Indigenous Authorities of Iximulew, Report on Indigenous Peoples and Universal Periodic Review (UPR) 2018–2022, in the IACHR archives.

190. The Commission heard the testimony of Bernardo Caal Xol, an indigenous leader of the Maya Qeqchi people in Alta Verapaz, who reported that he had been criminalized and imprisoned for more than four years for demanding the application of ILO Convention 169 in response to the imposition of a hydrometric project in his territory.<sup>356</sup> In response, he was charged and sentenced to seven years in prison for the crimes of illegal detention with aggravating circumstances and aggravated robbery, after the company Netzone S.A. filed a complaint in which it participated as a joint plaintiff in the criminal proceedings.<sup>357</sup>
191. The Commission notes with particular concern that the criminalization of women defenders, mostly indigenous or peasant women, has increased. These proceedings are reportedly occurring with greater frequency in Alta Vera Paz and Izabal.<sup>358</sup> In Sololá, the Commission received information about 40 women who are reportedly being criminally prosecuted in the municipality of San Marcos La Laguna.<sup>359</sup> For its part, information from the Altiplano Peasant Committee (CCDA) — Alta Verapaz Section — specifies that by 2023, they were aware of 1,080 legal accusations, mostly for the crime of trespassing, as well as arrest warrants that were pending against community members and defenders as a result of their defense of the land. Of the total number of people accused, 342 are women.<sup>360</sup>

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<sup>356</sup> IACtHR, Meeting with civil society organizations on indigenous peoples and Afro-descendants held during the on-site visit to Guatemala, July 22, 2024, in the IACtHR archives.

<sup>357</sup> Cf. IACtHR, [Northern Central America: Environmental Defenders](#), OEA/Ser.L/V/II. Doc. 400/22, December 16, 2022, para. 142 and sources cited in the report.

<sup>358</sup> IACtHR, Meeting with civil society organizations of women and LGBTI persons held during the on-site visit to Guatemala, July 22, 2024, on file with the IACtHR.

<sup>359</sup> IACtHR, Meeting with ancestral authorities in Sololá held during the on-site visit to Guatemala, July 23, 2024.

<sup>360</sup> See Guatemala Human Rights Commission, Submission of information on the human rights situation in Guatemala in the context of the on-site visit, on file with the IACtHR.

192. Despite the magnitude of the phenomenon and the testimonies about the criminalization of indigenous people in the exercise of community leadership, the State claims not to have official statistical information that would allow it to assess how many indigenous leaders face criminal proceedings or restrictive measures for their work in defending the territory and natural resources.<sup>361</sup>
193. The communities told the Commission about the economic, social, and psychological toll of criminalization, given the length of the proceedings, the need to appear at hearings, and the lack of progress in the proceedings.<sup>362</sup> In this regard, the IACtHR has identified that criminalization can have social effects by affecting structures, leadership, group functioning, and collective symbols. In this sense, the criminalization of people who perform significant functions in a society, town, or community, such as social and community leaders or indigenous authorities, has a very negative impact on the collective. This is because it affects not only the person being criminally prosecuted but also the society in which they operate, as they are prevented from exercising their position of representation, leadership, or authority. The misuse of criminal law can also generate community division, since the criminal prosecution of a defender often generates collective mistrust and insecurity, as well as a climate of fear, threats, finger-pointing, and social ostracism.<sup>363</sup>
194. The IACtHR reminds the State authorities, within their respective competences, of their obligation to prevent public officials or third parties from manipulating the State's punitive power and its justice

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<sup>361</sup> Response from the State, March 10, 2025.

<sup>362</sup> IACtHR, Meeting with ancestral authorities in Xelá, Quetzaltenango, held as part of the on-site visit to Guatemala, July 23, 2024, on file with the IACtHR; PBI, Criminalization of human rights defenders: patterns of misuse of criminal law against defenders accompanied by PBI Guatemala, received on June 5, 2024, on file with the IACtHR; IACtHR, Public Hearing "[Guatemala: Human rights defenders and justice operators facing the criminal justice system](#)" held during the 188th Period of Sessions, November 9, 2023.

<sup>363</sup> IACtHR, [Basic Guidelines for the Investigation of Crimes against Human Rights Defenders](#), OEA/Ser.L/V/II. Doc. 110, June 1, 2021, para. 73.

system to harass human rights defenders. In this regard, it urges the Guatemalan State to adopt all necessary measures to prevent human rights defenders from being subjected to unfair or unfounded trials through judicial investigations.

### **3. Students and members of the academic community**

195. During its on-site visit, the IACHR received information about the repression and criminalization of students and members of the academic community at the University of San Carlos de Guatemala (USAC) in retaliation for their participation in protests against serious irregularities in the election process for university authorities.<sup>364</sup>
196. The IACHR observes that, in addition to its academic and social relevance, as the only public institution of higher education in the country, the USAC plays an essential role in the democratic life of the country, since it is part of various Nominating Commissions responsible for electing high-ranking State officials and directly appoints a full-time magistrate and an alternate magistrate to the Constitutional Court. In this regard, control of the University's governing bodies would enable the co-opting of the justice system and the erosion of democratic checks and balances in Guatemala.<sup>365</sup>
197. In 2022, the university community staged protests and occupied academic spaces, demanding the annulment of the USAC rector election process in response to allegations of fraud and serious irregularities.<sup>366</sup> However, according to testimonies received by the Commission, these demonstrations were met with reprisals and

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<sup>364</sup> IACHR, Thematic Hearing, [“Guatemala: Situation of Freedom of Expression and Academic Freedom.”](#) 190th Regular Session, July 9, 2024; IACHR, [Annual Report 2023, Chapter IV.B. Guatemala.](#) December 31, 2023, paras. 96 and 15.

<sup>365</sup> IACHR, Thematic Hearing, [“Guatemala: Situation of Freedom of Expression and Academic Freedom.”](#) 190th Regular Session, July 9, 2024.

<sup>366</sup> IACHR, Thematic Hearing, [“Guatemala: Situation of Freedom of Expression and Academic Freedom.”](#) 190th Regular Session, July 9, 2024; Information received by the IACHR and its RELE during a meeting with members of the USAC, in the context of the IACHR's on-site visit to Guatemala, carried out between July 22 and 26, 2024.

criminalization, including arbitrary detentions, administrative sanctions, surveillance, harassment, threats, and stigmatization against students, teachers, and administrative staff. In 2025, the Commission documented the expulsion of students for their participation in these protests and in demonstrations rejecting measures considered repressive by university authorities.<sup>367</sup>

198. During the visit, in a meeting with representatives of the USAC—some of whom were even in hiding—the IACtHR received information about the impact of the execution of 27 arrest warrants and 17 raids carried out on November 16, 2023, against members of the university community, coinciding with the final exam period.<sup>368</sup> As a result, at least six people were arrested and others voluntarily surrendered to the authorities.<sup>369</sup> In the context of this investigation, called "Toma de la USAC: Botín Político" (Takeover of the USAC: Political Booty), the MP reported on requests to lift the immunity of elected officials Bernardo Arévalo and Karin Herrera.<sup>370</sup> At the time, the OAS General Secretariat noted that the Public Prosecutor's Office's decisions were political actions that distorted the electoral

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<sup>367</sup> Prensa Libre, [Usac students denounce criminalization of protest in support of expelled classmates](#), May 30, 2025; Prensa Comunitaria, [CSU expels 10 students for opposing fraud at USAC](#), May 29, 2025; eP Investiga, [CSU expels 10 students for protests in 2022 against the imposition of Walter Mazariegos as rector](#), May 29, 2025.

<sup>368</sup> Information received by the IACtHR and its RELE during a meeting with members of the USAC, in the context of the IACtHR's on-site visit to Guatemala, carried out between July 22 and 26, 2024.

<sup>369</sup> Information received by the IACtHR and its RELE during a meeting with members of the USAC, in the context of the IACtHR's on-site visit to Guatemala, carried out between July 22 and 26, 2024.

<sup>370</sup> The Public Prosecutor's Office indicated that the USAC suffered 90 million quetzals in damage to its physical structure. It also noted that the real purpose of the takeover of the university "was to commit crimes in order to nominate and support candidates from political parties for the highest elected offices, namely President and Vice President of the Republic, Deputies to the Congress of the Republic, among others." Public Prosecutor's Office. [Press release Public Prosecutor's Office conducts raids and coordinates arrests in "USAC takeover case: Political Booty."](#)

process, "and are therefore completely inappropriate and unacceptable in a democratic political system."<sup>371</sup>

199. At the Centro Universitario de Occidente, administrative proceedings were reportedly initiated against 20 teachers, demanding the return of their salaries for allegedly not teaching during an academic strike, despite this being a collective measure adopted institutionally.<sup>372</sup> There were also reports of dismissals, forced retirements, suspension of salaries, and direct threats, including against family members of the teachers involved.<sup>373</sup>
200. In addition, the IACtHR was informed of threats of sexual violence by shock groups and acts of harassment attributed to university authorities.<sup>374</sup> According to the information received, several students were forced to abandon their studies or go into exile to protect their integrity and that of their families, which would constitute an infringement of their rights to education, freedom of expression, and political participation.<sup>375</sup>
201. In total, at least 87 people have been criminalized in this context and 74 face academic or disciplinary sanctions with the risk of expulsion or dismissal.<sup>376</sup> The delay in judicial proceedings has created uncertainty, while some people, declared in contempt of court and

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<sup>371</sup> OAS, "[OAS General Secretariat condemns preliminary hearings in Guatemala against President-elect and other officials](#)," November 16, 2023.

<sup>372</sup> Information received by the IACtHR and its RELE during a meeting with members of the USAC, in the context of the IACtHR's on-site visit to Guatemala, carried out between July 22 and 26, 2024.

<sup>373</sup> Information received by the IACtHR and its RELE during a meeting with members of the USAC, in the context of the IACtHR's on-site visit to Guatemala, carried out between July 22 and 26, 2024.

<sup>374</sup> Information received by the IACtHR and its RELE during a meeting with members of the USAC, within the framework of the IACtHR's on-site visit to Guatemala, carried out between July 22 and 26, 2024.

<sup>375</sup> Information received by the IACtHR and its RELE during a meeting with members of the USAC, within the framework of the IACtHR's on-site visit to Guatemala, carried out between July 22 and 26, 2024.

<sup>376</sup> Information received by the IACtHR and its RELE during a meeting with members of the USAC, within the framework of the IACtHR's on-site visit to Guatemala, carried out between July 22 and 26, 2024.

without access to alternative measures, would be exposed to detention when they appear before a judge.<sup>377</sup>

202. For its part, the USAC workers' union, with 73 years of history, reported that it had never before faced such a critical situation. Its members have also been prosecuted and have been the target of death threats, surveillance, raids, and sabotage of their vehicles.<sup>378</sup> Despite complaints filed with the Public Prosecutor's Office, no progress has been made.<sup>379</sup> According to testimonies collected by the IACtHR, this situation has created a climate of widespread fear on campus, with the presence of armed and hooded groups intimidating students and teachers.<sup>380</sup>

203. The IACtHR recalls that academic institutions, as spaces for training and knowledge generation, play a crucial role in promoting discussion, pluralism of ideas, and informed deliberation on matters of public interest.<sup>381</sup> In particular, autonomy is an essential requirement for guaranteeing academic freedom and the fulfillment of the mission of institutions of higher education. According to the IACtHR's Inter-American Principles on Academic Freedom and University Autonomy, university autonomy is enhanced when the appointment of authorities "recognizes academic merit, is free from undue partisan influence, and takes into consideration transparent processes that allow for the

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<sup>377</sup> Information received by the IACtHR and its RELE during a meeting with members of the USAC, within the framework of the IACtHR's on-site visit to Guatemala, carried out between July 22 and 26, 2024.

<sup>378</sup> Information received by the IACtHR and its RELE during a meeting with members of the USAC, within the framework of the IACtHR's on-site visit to Guatemala, carried out between July 22 and 26, 2024.

<sup>379</sup> Information received by the IACtHR and its RELE during a meeting with members of the USAC, within the framework of the IACtHR's on-site visit to Guatemala, carried out between July 22 and 26, 2024.

<sup>380</sup> Information received by the IACtHR and its RELE during a meeting with members of the USAC, within the framework of the IACtHR's on-site visit to Guatemala, carried out between July 22 and 26, 2024.

<sup>381</sup> IACtHR, RELE, Special Rapporteurship on Economic, Social, Cultural, and Environmental Rights (REDESCA), [Inter-American Principles on Academic Freedom and University Autonomy](#), Principle 1, 2021.

participation of the academic community concerned".<sup>382</sup> Autonomy also entails institutional duties and responsibilities related to the fulfillment of the right to education and respect for the fundamental rights of the individuals who make up its community.<sup>383</sup>

204. The use of criminal law to punish academic freedom is incompatible with the guarantees of the inter-American system.<sup>384</sup> Any punitive action by the State must be rigorously evaluated, weighing the seriousness of the act, the intention, and the damage caused, and applied only in exceptional and strictly necessary cases.<sup>385</sup> The IACtHR emphasizes that intimidation, harassment, threats, gender-based violence, and other attacks against individuals for their participation in the academic community violate fundamental rights, restrict academic freedom, and encourage self-censorship.<sup>386</sup> It is the responsibility of the State to prevent, investigate, punish those responsible, protect victims, and ensure adequate redress.<sup>387</sup>

#### **4. Journalists and media workers, including community media workers**

205. The IACtHR observes a consistent pattern of unjustified criminal proceedings against individuals who legitimately exercise their right to

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<sup>382</sup> IACtHR, RELE, REDESCA, [Inter-American Principles on Academic Freedom and University Autonomy](#), Principle 2, 2021.

<sup>383</sup> IACtHR, RELE, REDESCA, [Inter-American Principles on Academic Freedom and University Autonomy](#), Principle 2, 2021.

<sup>384</sup> IACtHR, RELE, REDESCA, [Inter-American Principles on Academic Freedom and University Autonomy](#), Principle 8, 2021.

<sup>385</sup> IACtHR, RELE, REDESCA, [Inter-American Principles on Academic Freedom and University Autonomy](#), Principle 8, 2021.

<sup>386</sup> IACtHR, RELE, REDESCA, [Inter-American Principles on Academic Freedom and University Autonomy](#), Principle 5, 2021.

<sup>387</sup> IACtHR, RELE, REDESCA, [Inter-American Principles on Academic Freedom and University Autonomy](#), Principle 5, 2021.

freedom of expression, particularly those who report and denounce matters of high public interest, including the actions of the judiciary.

206. In this regard, the IACtHR has closely monitored the situation of José Rubén Zamora, founder and director of *El Periódico*, who was arrested on July 29, 2022, on charges of blackmail, influence peddling, and conspiracy to launder money. This case is part of a broader pattern of criminalization documented in Guatemala. The criminal proceedings against him have been characterized by excessive delays and the use of pretrial detention as a punitive measure, prioritizing his deprivation of liberty over the resolution of the charges against him. Journalist José Rubén Zamora has been the beneficiary of precautionary measures from the IACtHR since 2003, due to the risk to his life and personal integrity resulting from his journalistic work and the exercise of freedom of expression in Guatemala.<sup>388</sup>

207. As part of its visit to the country, the IACtHR traveled to the Mariscal Zavala detention center to interview Mr. José Rubén Zamora. According to the testimony received, the conditions of his detention during 2023 contributed to the progressive deterioration of his physical and mental health. According to reports, José Rubén Zamora was subjected to at least six surprise raids by anti-narcotics agents, in addition to periodic inspections, some of which were carried out with trained dogs.<sup>389</sup> It was also reported that he was constantly exposed to disturbing noises during the early hours of the morning, which had a negative impact on his mental

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<sup>388</sup> IACtHR, [Annual Report 2003](#), Chapter 3: The system of petitions and individual cases, Subchapter C: Precautionary measures granted by the IACtHR during 2003, OEA/Ser.L/V/II.118., Doc. 70 rev. 2, December 29, 2003, para. 45.

<sup>389</sup> Information received by the IACtHR and its RELE from journalist José Rubén Zamora, during the IACtHR's on-site visit to Guatemala from July 22 to 26, 2024.

health.<sup>390</sup> It was also reported that, over a period of approximately four months, he faced an insect infestation in his cell, a situation that caused him physical injuries and episodes of nighttime panic.<sup>391</sup> Added to these allegations are reports of sexual humiliation and verbal abuse by prison staff, as well as restrictions on family visits.<sup>392</sup> The journalist stated that, since the arrival of the new government, there have been improvements in prison conditions, such as access to basic services, visits, communications, treatment by guards, and constant surveillance. However, these improvements do not mitigate the profound psychological impact caused by repeated traumatic experiences during his detention, the constant feeling of helplessness, or the lack of response to his complaints of mistreatment.<sup>393</sup>

208. The Commission also documented serious limitations on the right to defense and due process. In particular, the journalist detailed that, over a period of nine months, he was forced to change lawyers multiple times, eventually having up to 14 different defense attorneys.<sup>394</sup> Of these, four were detained and two went into exile due to fear of reprisals and harassment.<sup>395</sup> He also reported that the

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<sup>390</sup> Information received by the IACHR and its RELE from journalist José Rubén Zamora, during the IACHR's on-site visit to Guatemala from July 22 to 26, 2024; El País, [Guatemala: The horror in José Rubén Zamora's prison, between torture and death threats: "I feel like I'm dead, I feel crushed."](#) July 18, 2024; France 24, [Journalist José Rubén Zamora spent two long years in a punishment cell in Guatemala.](#) July 30, 2024.

<sup>391</sup> Information received by the IACHR and its RELE from journalist José Rubén Zamora, in the context of the IACHR's on-site visit to Guatemala, carried out between July 22 and 26, 2024.

<sup>392</sup> Information received by the IACHR and its RELE from journalist José Rubén Zamora, in the context of the IACHR's on-site visit to Guatemala, carried out between July 22 and 26, 2024.

<sup>393</sup> Information received by the IACHR and its RELE from journalist José Rubén Zamora, in the context of the IACHR's on-site visit to Guatemala, carried out between July 22 and 26, 2024.

<sup>394</sup> Information received by the IACHR and its RELE from journalist José Rubén Zamora, in the context of the IACHR's on-site visit to Guatemala, carried out between July 22 and 26, 2024.

<sup>395</sup> Information received by the IACHR and its RELE from journalist José Rubén Zamora, in the context of the IACHR's on-site visit to Guatemala, carried out between July 22 and 26, 2024.

court-appointed lawyers were repeatedly replaced, which significantly hampered the continuity and effectiveness of his legal strategy.<sup>396</sup> He also denounced unjustified postponements of hearings, the unfounded rejection of evidence presented by his defense, the restriction of his right to self-defense<sup>397</sup>, long waiting periods before each appearance, as well as obstructions to privacy in confidential meetings with his legal team.<sup>398</sup>

209. Similarly, on May 17, 2024, the Working Group on Arbitrary Detention of the United Nations Human Rights Council concluded that his detention lacked legal basis, resulted from the exercise of his right to freedom of expression, did not comply with international standards of fair trial, and was discriminatory on the grounds of political opinion.<sup>399</sup> Consequently, it determined that "the appropriate remedy would be to release Mr. Zamora immediately and grant him the effective right to obtain compensation and other types of reparation, in accordance with international law".<sup>400</sup>
210. The IACtHR noted that journalist José Rubén Zamora was released on October 19, 2024, after being granted alternative measures in two criminal proceedings against him. However, on March 4, 2025, the Third Chamber of the Court of Appeals revoked the house arrest measure, and on March 10, 2025, his return to the Mariscal Zavala

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<sup>396</sup> Information received by the IACtHR and its RELE from journalist José Rubén Zamora, in the context of the IACtHR's on-site visit to Guatemala, carried out between July 22 and 26, 2024.

<sup>397</sup> Information received by the IACtHR and its RELE from journalist José Rubén Zamora, in the context of the IACtHR's on-site visit to Guatemala, carried out between July 22 and 26, 2024.

<sup>398</sup> Information received by the IACtHR and its RELE from journalist José Rubén Zamora, in the context of the IACtHR's on-site visit to Guatemala, carried out between July 22 and 26, 2024.

<sup>399</sup> IACtHR, [Preliminary Observations](#), On-site visit to Guatemala from July 22 to 26, 2024, OEA/Ser.L/V/II., Doc.124/24, August 15, 2025, para. 36.

<sup>400</sup> UN, Human Rights Council, Working Group on Arbitrary Detention, [Opinion No. 7/2024](#), concerning José Rubén Zamora Marroquín (Guatemala), A/HRC/WGAD/2024/7, May 17, 2024.

detention center was ordered.<sup>401</sup> During the hearing, the judge in charge warned that judges and judicial personnel had been threatened by unidentified individuals. Later, during a working visit to Guatemala from June 4 to 6, 2025, the IACtHR received information about the deterioration of Mr. Zamora's physical and psychological health after his return to prison.<sup>402</sup> On September 1, 2025, the CC revoked a provisional injunction granted by the Supreme Court of Justice to the journalist, which sought to suspend the preventive detention order.<sup>403</sup>

211. The IACtHR expresses its deep concern over the return to prison of journalist José Rubén Zamora and rejects the misuse of the judicial system through the accumulation of criminal proceedings against him. It warns that this persecution constitutes direct retaliation for the legitimate exercise of his freedom of expression and journalistic work, contrary to international standards. Consequently, the Commission urges the State to take the necessary measures to ensure his immediate release.
212. In this same context, in February 2023, the Commission documented the opening of criminal investigations against eight journalists and columnists from *El Periódico*<sup>404</sup>, including editor Julia Corado, editor-in-chief Gerson Ortiz, journalists Alexander Valdez,

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<sup>401</sup> IACtHR, UN, Press Release No. 060/25, [IACtHR and UN Special Rapporteurs express concern over the return to prison of journalist José Rubén Zamora in Guatemala](#), March 26, 2025.

<sup>402</sup> Information received by the IACtHR during its working visit on precautionary measures and follow-up on recommendations in Guatemala, carried out between June 4 and 6, 2025; IACtHR, Press Release No. 120/25, [IACtHR concludes working visit on precautionary measures and follow-up on recommendations in Guatemala](#), June 13, 2025.

<sup>403</sup> EP Investiga, [“CC grants appeal to the MP and revokes provisional protection in favor of José Rubén Zamora,”](#) September 1, 2025; Prensa Comunitaria, [“Constitutional Court upholds ruling to keep José Rubén Zamora in prison,”](#) September 1, 2025.

<sup>404</sup> IACtHR, RELE, Press Release No. R52/23, [RELE expresses concern over the opening of a criminal investigation against journalists in Guatemala for covering matters of public interest](#), March 29, 2023; IACtHR, RELE, [Annual Report 2023](#), OEA/Ser.L/V/II, Doc. 386, December 6, 2023, paras. 834-839.

Rony Ríos, Cristian Velix, and Denis Aguilar, as well as columnists Edgar Gutiérrez and Gonzalo Marroquín, who were accused of obstruction of justice in connection with the publication of articles on alleged irregularities in the criminal proceedings against José Rubén Zamora and criticism of the judicial proceedings.<sup>405</sup> According to public information, the FECI requested that the publishing company Aldea Global S.A. hand over all articles published between July 2022 and May 2023<sup>406</sup>, alleging that their purpose was to "attack the personal sphere of justice operators." Faced with the risk of arrest, several of the journalists were forced into exile.<sup>407</sup>

213. Various civil society organizations have described these events as a form of illegal, systematic persecution and criminalization of journalism, pointing out that they violate the Constitution and the Law on Freedom of Expression, which establishes that any complaint against journalists must be brought before a press court.<sup>408</sup>

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405 IACHR, RELE, Press Release No. R52/23, [RELE expresses concern over the opening of a criminal investigation against journalists in Guatemala for covering matters of public interest](#), March 29, 2023; Plaza Pública, [Zamora case used to begin investigating journalists and independent media](#), February 28, 2023; Prensa Libre, [Judge orders investigation of journalists and columnists from elPeriódico and other media outlets at the request of the Public Prosecutor's Office](#), February 28, 2023; Committee to Protect Journalists (CPJ), [CPJ calls for Guatemala to halt investigation into elPeriódico journalists](#), February 28, 2023.

406 AP News, [Guatemala: Prosecutor's Office requests local media outlet to hand over publications by eight journalists under investigation](#), June 5, 2023; La Hora, June 5, 2023, LaHora.gt, [The Public Prosecutor's Office continues: FECI requests publications by journalists and columnists from elPeriódico](#), June 5, 2023; Prensa Comunitaria, [Irregularities reported in investigation against journalists and columnists from elPeriódico](#), June 7, 2023.

407 IACHR, RELE, Press Release No. R52/23, [RELE expresses concern over the opening of a criminal investigation against journalists in Guatemala for covering matters of public interest](#), March 29, 2023.

408 UDEFEGUA, [@UDEFEGUA], (June 7, 2023), Arbitrary criminal prosecution against freedom of expression, X, <https://x.com/UDEFEGUA/status/1666517193041780760?s=20>; Prensa Comunitaria, [@PrensaComunitar], (July 15, 2025), The CC has in its hands a resolution that could mark the history of press freedom in Guatemala, X, <https://x.com/PrensaComunitar/status/1945236232063037534>.

214. Over the past four years, the IACHR has followed up on other cases involving complaints that have been described as spurious and aimed at preventing the publication of journalistic investigations on matters of public and political relevance. For example, in September 2021, a former communications minister reportedly filed a complaint against journalist Juan Luis Font, director of Con Criterio, for alleged crimes of illicit association and collusion, forcing him to leave the country.<sup>409</sup> In 2024, journalist Juan Luis Font was reported by a member of Congress for alleged slander and faces an arrest warrant for the alleged crimes of collusion and active bribery.<sup>410</sup>
215. For his part, journalist Diego España, from the media outlet La Hora, is reportedly the subject of two judicial investigations, one of which is linked to questions directed at a FECL prosecutor. There have also been reports of attempts by the National Civil Police, through its Specialized Criminal Investigation Division (DEIC), to access his personal data without apparent justification.<sup>411</sup> In June 2022, the Public Prosecutor's Office reportedly launched an investigation against journalists from Agencia Ocote following the publication of a podcast based on an interview with a prosecutor in prison.<sup>412</sup> Similarly, in 2021, criminal proceedings were documented against journalists Sonny Figueroa and Marvin del Cid, brought by current and former officials after they published investigations implicating them.<sup>413</sup>
216. On the other hand, the Commission notes that the pattern of criminalization against those who exercise their right to freedom of

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<sup>409</sup> IACHR, RELE, Press Release No. R19622, [The State of Guatemala must fully and effectively guarantee the right to freedom of expression and freedom of the press](#), September 2, 2022; IACHR, RELE, [Annual Report 2021](#), OEA/Ser.L/V/II., Doc. 64 rev. 1, May 26, 2022, para. 470.

<sup>410</sup> IACHR, RELE, [Annual Report 2024](#), OEA/Ser.L/V/II., Doc. 39, March 3, 2025, para. 717.

<sup>411</sup> IACHR, RELE, [Annual Report 2024](#), OEA/Ser.L/V/II., Doc. 39, March 3, 2025, para. 716.

<sup>412</sup> IACHR, RELE, Press Release No. R19622, [The State of Guatemala must fully and effectively guarantee the right to freedom of expression and freedom of the press](#), September 2, 2022.

<sup>413</sup> IACHR, RELE, Press Release No. R19622, [The State of Guatemala must fully and effectively guarantee the right to freedom of expression and freedom of the press](#), September 2, 2022.

expression in Guatemala is also replicated at the local level. In El Estor, Izabal department, the IACHR received information about the criminalization promoted by private actors with economic interests and local authorities against community leaders and journalists who denounce the social and environmental impacts of extractive activities.<sup>414</sup> These events are part of the Q'eqchi' communities' resistance to mining activities, African palm monoculture, and forced evictions, both judicial and extrajudicial.<sup>415</sup> The growing conflict in the area, especially since October 2021, has seriously affected the rights to freedom of expression, association, and assembly, as well as the right to prior consultation. This is the first time that the IACHR has deployed a delegation to this region as part of its monitoring work in Guatemala.

217. In these circumstances, information was received about arrest warrants against community leaders, environmental defenders, and representatives of fishermen's associations, in retaliation for their complaints about land grabbing and the effects of natural resource exploitation projects, such as soil erosion, pollution of Lake Izabal, and the dispossession of ancestral territories.<sup>416</sup> Among the cases reported are those of Pedro Paanch, Pedro Choc, Mariano Pop, and Juan Francisco Yat, who is reportedly in preventive detention.<sup>417</sup> Civil society representatives emphasized to the IACHR the key role of community journalism in raising awareness of these issues and

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<sup>414</sup> Information received by the IACHR and its RELE during their visit to El Estor, as part of the IACHR's on-site visit to Guatemala, carried out between July 22 and 26, 2024.

<sup>415</sup> Information received by the IACHR and its RELE during their visit to El Estor, as part of the IACHR's on-site visit to Guatemala, carried out between July 22 and 26, 2024.

<sup>416</sup> Information received by the IACHR and its RELE during their visit to El Estor, as part of the IACHR's on-site visit to Guatemala, carried out between July 22 and 26, 2024.

<sup>417</sup> Information received by the IACHR and its RELE during their visit to El Estor, as part of the IACHR's on-site visit to Guatemala, carried out between July 22 and 26, 2024.

preventing the excessive use of force during security operations in the region.<sup>418</sup>

218. Likewise, cases were reported involving journalists Juan Bautista Xol, Baudilio Choc, and Carlos Choc, who have publicly denounced legal proceedings against them and raids on their homes after covering demonstrations by Mayan Q'eqchi' communities and the use of public force to disperse them in October 2021.<sup>419</sup> According to information received, during the operations, the Public Prosecutor's Office allegedly planted evidence, forcing the journalists to leave their homes and continue their work in conditions of forced displacement.<sup>420</sup>
219. In recent years, the IACtHR has documented the case of Carlos Choc, an indigenous Maya Q'eqchi' community journalist who, since 2017, has been the target of threats and criminal proceedings for crimes such as incitement to commit a crime, illegal demonstration and assembly, and illegal detention.<sup>421</sup> These actions are believed to be linked to his coverage of the environmental impacts of the CGN-Pronico mine in El Estor, community protests, and the alleged murder of a fisherman by the National Civil Police.<sup>422</sup>

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<sup>418</sup> Information received by the IACtHR and its RELE during their visit to El Estor, as part of the IACtHR's on-site visit to Guatemala, carried out between July 22 and 26, 2024.

<sup>419</sup> IACtHR, RELE, Press Release No. R196/22, [The State of Guatemala must fully and effectively guarantee the right to freedom of expression and freedom of the press](#), September 2, 2022; Prensa Comunitaria, [29 agents participated in raid on community journalist's home](#), November 3, 2021.

<sup>420</sup> Information received by the IACtHR and its RELE during their visit to El Estor, as part of the IACtHR's on-site visit to Guatemala, carried out between July 22 and 26, 2024.

<sup>421</sup> IACtHR, RELE, Press Release No. R196/22, [The State of Guatemala must fully and effectively guarantee the right to freedom of expression and freedom of the press](#), September 2, 2022; IACtHR, RELE, [Annual Report 2021](#), OAS/Ser.L/V/II., Doc. 64 rev. 1, May 26, 2022, para. 468; IACtHR, RELE, [Annual Report 2022](#), OAS/Ser.L/V/II., Doc. 50, March 6, 2023, paras. 728 and 746; IACtHR, RELE, [Annual Report 2024](#), OEA/Ser.L/V/II., Doc. 39, March 3, 2025, para. 700.

<sup>422</sup> CPJ, [Guatemalan journalist Carlos Choc to be prosecuted for events related to his coverage of a protest](#), April 4, 2022; Front Line Defenders, [Closure of proceedings in favor of journalist Carlos Ernesto Choc Chub and three criminalized artisanal fishermen](#), January 31, 2024.

220. During its visit to El Estor, the IACHR also met with members of the indigenous radio station Xyaab' Tzuultaq'a, who reported raids carried out in October 2021 against community and indigenous media outlets, including their station, Radio Kamolbé, and the Guatemalan Federation of Radio Schools (FGER).<sup>423</sup> They also reported acts of stigmatization and threats of prosecution, which allegedly led members of the board of directors and radio collaborators to abandon their duties for fear of reprisals.<sup>424</sup>

221. In turn, other journalists in the municipality face accusations of incitement to commit a crime and theft of fluids.<sup>425</sup> Although there have been favorable rulings in some cases, several legal proceedings remain open, contributing to a persistent climate of uncertainty, harassment, and self-censorship.<sup>426</sup> Despite the support of the Q'eqchi' Ombudsman's Office and networks such as CUNAUH, the Human Rights Ombudsman's Office (PDH) has reportedly failed to adequately follow up on the cases.<sup>427</sup>

222. The IACHR has also received information about the criminalization of women journalists and community communicators in Guatemala, particularly those who address issues of interest to indigenous women and matters of local relevance.<sup>428</sup> Reports received, both during the visit and in monitoring in recent years, indicate that these processes,

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<sup>423</sup> Information received by the IACHR and its RELE during their visit to El Estor, as part of the IACHR's on-site visit to Guatemala, carried out between July 22 and 26, 2024.

<sup>424</sup> Information received by the IACHR and its RELE during their visit to El Estor, as part of the IACHR's on-site visit to Guatemala, carried out between July 22 and 26, 2024.

<sup>425</sup> Information received by the IACHR and its RELE during their visit to El Estor, as part of the IACHR's on-site visit to Guatemala, carried out between July 22 and 26, 2024.

<sup>426</sup> Information received by the IACHR and its RELE during their visit to El Estor, as part of the IACHR's on-site visit to Guatemala, carried out between July 22 and 26, 2024.

<sup>427</sup> Information received by the IACHR and its RELE during their visit to El Estor, as part of the IACHR's on-site visit to Guatemala, carried out between July 22 and 26, 2024.

<sup>428</sup> IACHR, RELE, Press Release No. R19622, [The State of Guatemala must fully and effectively guarantee the right to freedom of expression and freedom of the press](#), September 2, 2022.

as well as other forms of aggression—including those carried out through social media—involve elements of gender-based violence.

223. For example, indigenous defender and community journalist Anastasia Mejía Tiriquiz, director of Xol Abaj Radio and Xol Abaj TV, was arrested on September 22, 2020, and her station was raided by the Specialized Criminal Investigation Division of the National Civil Police in Joyabaj, Quiché. According to public reports, she was charged with sedition, aggravated assault, aggravated arson, and aggravated robbery after covering a demonstration against the local mayor in August of that year.<sup>429</sup> Another case involves Norma Sancir, a Kaqchikel Maya journalist, who was allegedly illegally detained by PNC agents in September 2014 while covering an eviction in the Maya Ch'orti region.<sup>430</sup>
224. The IACtHR and the Inter-American Court have emphasized that an independent and critical press is a fundamental element for the enforcement of the other freedoms that make up the democratic system and the rule of law.<sup>431</sup> On this point, the IACtHR's Declaration of Principles on Freedom of Expression establishes that the use of state power and resources to pressure and/or punish journalists and

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429 Article 19 MX-CA, [Director of Xol Abaj Radio and Xol Abaj TV arrested and charged with vandalism during demonstration in Quiché, Guatemala](#), September 24, 2020; International Federation for Human Rights (FIDH), [Guatemala: Criminalization and arbitrary detention of journalist Anastasia Mejía Tiriquiz](#), September 25, 2020; Front Line Defenders, [Multiple irregularities in the trial of indigenous human rights defender Anastasia Mejía](#), October 30, 2020.

430 Prensa Comunitaria, [Norma Sancir calls for justice in the final phase of the trial against police officers](#), January 17, 2024; Prensa Comunitaria, [Nine years after her arrest, community journalist Norma Sancir awaits justice](#), January 31, 2024; Plaza Pública, [Norma Sancir and the precedent of the right to inform](#), February 15, 2024.

431 IACtHR, [Background and Interpretation of the Declaration of Principles](#), Principle 9; Inter-American Court of Human Rights, Advisory Opinion 585, Compulsory Membership of Journalists in Professional Associations (Arts. 13 and 29 American Convention on Human Rights), Ser. A No. 5, November 13, 1985; IACtHR, RELE, [Inter-American Legal Framework on the Right to Freedom of Expression](#), OEA/Ser.L/V/II CIDH/RELE/INF. 2/09, December 30, 2009, para. 165.

media outlets based on their reporting directly undermines freedom of expression.<sup>432</sup>

225. Likewise, the inter-American human rights system provides enhanced protection for speech of general interest and speech about the conduct of public officials, as such speech is indispensable in a pluralistic society for exercising public control over the acts of government and the administration. In this regard, ideas, information, and opinions related to the performance of justice operators and the functioning of the Public Ministry enjoy special protection under the American Convention.<sup>433</sup> As the Inter-American Court of Human Rights has emphasized, in a democratic society, state institutions "are subject to public scrutiny and criticism, and their activities are part of the public debate".<sup>434</sup> Consequently, public officials must be more tolerant and open to criticism of statements and opinions expressed by individuals exercising democratic control and must refrain more strictly from imposing limitations on these forms of expression.<sup>435</sup>
226. With regard to Guatemala and its community radio stations, the Inter-American Court of Human Rights has stated that criminal law is the most restrictive and severe means of establishing legal responsibility, especially when it involves custodial sentences.<sup>436</sup> Therefore, its use must be subject to the principle of minimum intervention, considering its nature as a last resort. In a democratic state governed by the rule

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<sup>432</sup> IACHR, [Declaration of Principles on Freedom of Expression](#), Principle 13, 2000.

<sup>433</sup> IACHR, RELE, Press Release No. R52/23, [RELE expresses concern over the opening of a criminal investigation against journalists in Guatemala for covering matters of public interest](#), March 29, 2023.

<sup>434</sup> Inter-American Court of Human Rights, Case of Usón Ramírez v. Venezuela, Preliminary Objection, Merits, Reparations and Costs, Judgment of November 20, 2009, Series C No. 207, para. 83.

<sup>435</sup> Inter-American Court of Human Rights, Case of Usón Ramírez v. Venezuela, Preliminary Objection, Merits, Reparations and Costs, Judgment of November 20, 2009, Series C No. 207, para. 83.

<sup>436</sup> Inter-American Court of Human Rights, Case of the Maya Kaqchikel Indigenous Peoples of Sumpango et al. v. Guatemala, Merits, Reparations and Costs, Judgment of October 6, 2021, Series C No. 440, para. 168.

of law, punitive power should only be exercised when strictly necessary to protect fundamental legal rights from serious attacks. Disproportionate or unjustified use of the criminal justice system constitutes an abuse of state power.<sup>437</sup>

227. The IACtHR calls on the Public Prosecutor's Office to refrain from using criminal law to criminalize journalism on matters of public interest, as this is an essential condition for guaranteeing the full exercise of the right to freedom of expression, particularly at the community level. It also urges the Public Prosecutor's Office to adopt the necessary and sufficient measures to address patterns of persecution against critical and independent journalism, especially in contexts of deep territorial conflict.
228. One of the most serious consequences of the progressive deterioration of guarantees for the exercise of freedom of expression and of the press in Guatemala has been the forced exile of journalists. According to data from civil society organizations, at least 26 journalists have left the country in the last three years, with a significant increase in 2023, when 11 left.<sup>438</sup> Among the factors that motivated these departures are the use of the criminal justice system as a mechanism of intimidation, harassment, the lack of conditions to practice journalism freely and safely, and the weakening of the fight against impunity.<sup>439</sup>
229. Finally, journalists in exile reported that persecution continues from Guatemala through criminalization practices and smear campaigns

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<sup>437</sup> Inter-American Court of Human Rights, Case of the Maya Kaqchikel Indigenous Peoples of Sumpango et al. v. Guatemala, Merits, Reparations and Costs, Judgment of October 6, 2021, Series C No. 440, para. 168.

<sup>438</sup> Information submitted by the organization Red Rompe el Miedo Guatemala in response to the public consultation of the Special Rapporteur for Freedom of Expression of the IACtHR, May 2024.

<sup>439</sup> IACtHR, [Annual Report 2022](#), Chapter IVB: Guatemala, OAS/Ser.L/V/II. Doc. 50 rev. 1, April 1, 2023; IACtHR, [Annual Report 2023](#), Chap. IVB: Guatemala, OEA/Ser.L/V/II., Doc. 386 rev. 1, December 31, 2023.

that continue to affect their safety and credibility.<sup>440</sup> In some cases, they have been forced to implement self-protection measures even in their host country. In addition, they expressed concern about the limited and short-term nature of the assistance programs available, as well as the permanence of power structures linked to acts of persecution and intimidation.<sup>441</sup> Added to this is the government's failure to take concrete measures to guarantee effective conditions for return and strengthen protection mechanisms, which limits their possibilities of returning to the country.<sup>442</sup>

230. The Commission reaffirms that States, by virtue of their obligations to respect and guarantee, must adopt specific measures to identify and counter threats that may lead to the forced exile of journalists. As established in inter-American jurisprudence, "States have a duty to provide measures to protect the life and integrity of journalists who are subject to special risk due to factors such as the type of events they cover, the public interest of the information they disseminate, or the area they must access to carry out their work, as well as those who are threatened in connection with the dissemination of that information or for reporting or promoting the investigation of violations they have suffered or learned of in the exercise of their profession".<sup>443</sup> Likewise, they must refrain from acts that could increase the risk of forced exile, which implies not only avoiding

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<sup>440</sup> Information received by the IACtHR and its RELE during meetings with journalists, media executives, and civil society organizations, in the context of the IACtHR's on-site visit to Guatemala, carried out between July 22 and 26, 2024.

<sup>441</sup> Information received by the IACtHR and its RELE during meetings with journalists, media executives, and civil society organizations, in the context of the IACtHR's on-site visit to Guatemala, carried out between July 22 and 26, 2024.

<sup>442</sup> Information received by the IACtHR and its RELE during meetings with journalists, media executives, and civil society organizations, as part of the IACtHR's on-site visit to Guatemala, carried out between July 22 and 26, 2024.

<sup>443</sup> IACtHR, RELE, [Exile of Journalists and Freedom of Expression](#), OEA/Ser.L/V/II, IACtHR/RELE/INF.30/25, April 15, 2025, para. 133.

direct actions against journalists but also preventing the creation of contexts that are adverse to freedom of expression.<sup>444</sup>

231. Finally, the Commission emphasizes that guarantees of non-repetition transcend individual reparations. In the case of exiled journalists, the authorities, within their respective competences, must promote institutional reforms to prevent further violations, including strengthening protection mechanisms, training public officials on freedom of expression, and implementing specialized protocols to address threats.<sup>445</sup> These actions must be accompanied by the strengthening of judicial independence, access to justice, and attention to the structural causes of forced exile.<sup>446</sup>

### **C. Instrumentalization of the justice system to guarantee impunity in corruption cases**

232. In Guatemala, the justice system has been instrumentalized not only for selective criminal prosecution, but also to consolidate an environment of impunity in cases of high-impact corruption and serious human rights violations. Particularly after the progress made during the CICIG period in bringing cases to trial, the judicial apparatus was reconfigured to protect the political, economic, and criminal power networks and structures that had been denounced, highlighting the lack of independence of the Public Prosecutor's Office and the Judiciary.

233. In this vein, a report by *Plaza Pública* revealed that at least 118 people charged in 35 of the 120 cases brought by the now-defunct CICIG have benefited in recent years from actions or omissions by the Public

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<sup>444</sup> IACHR, RELE, [Exile of Journalists and Freedom of Expression](#), OEA/Ser.L/V/II, IACHR/RELE/INF.30/25, April 15, 2025, para. 133.

<sup>445</sup> IACHR, RELE, [Exile of Journalists and Freedom of Expression](#), OEA/Ser.L/V/II, CIDH/RELE/INF.30/25, April 15, 2025, para. 136.

<sup>446</sup> IACHR, RELE, [Exile of Journalists and Freedom of Expression](#), OEA/Ser.L/V/II, CIDH/RELE/INF.30/25, April 15, 2025, para. 136.

Prosecutor's Office and the FECl, as well as by judges who contributed to the closure of the proceedings, as shown below.<sup>447</sup>

**Table. Instances that have benefited defendants in cases brought by CICIG**

Instancia	Resolución	Sindicados	Casos
<b>Ministerio Público</b> 	Apeló	63	15
	No apeló	35	11
	Pendiente	8	3
	Cerró el caso	4	4
	Desestimación	2	2
	No se ha vencido el plazo para apelar	1	1
	MP pidió cerrar el caso	1	1
<b>Organismo Judicial</b> 	Cerró el caso	37	12
	Rechazó antejuicio	15	2
	Absolvió	15	3
	Arresto Domiciliario	10	8
	Condenó	5	1
	Anuló orden de captura	2	3
	Anuló acuerdos de colaboración eficaz	2	1
	Redujo la sentencia	1	1
	Prisión Preventiva	1	1
	Ordena nueva resolución	1	1
<b>CC</b> 	Anuló delitos	1	1
	Confirma cierre del caso	23	5
	Anuló la sentencia	3	1
	Rechazó antejuicio	1	1
	Impidió que declare	1	1
	Eliminó delito	1	1
	Arresto Domiciliario	1	1
	Anuló orden de captura	1	1

Source: issued by Plaza Pública in "The reconfiguration of post-CICIG justice: 118 defendants benefited under Porras' MP," June 18, 2024

<sup>447</sup> Plaza Pública, [The reconfiguration of justice post-CICIG: 118 defendants benefited under Porras's MP](#), June 18, 2024.

234. On the other hand, civil society organizations have denounced that the MP's criminal policy responds to the interests of criminal networks that have co-opted the state, favoring systemic impunity through the dismissal and mass filing of complaints of corruption or serious crimes.<sup>448</sup> According to a report prepared by *Convergencia por los Derechos Humanos*, between 2018 and 2024, only 8.6% of complaints resulted in formal charges or convictions, while 87% were dismissed or shelved, corresponding to more than 3 million complaints.<sup>449</sup> According to available information, this trend reflects an intention to generate positive statistical results that do not take into account the rights of victims.<sup>450</sup> Furthermore, despite the fact that the Public Prosecutor's Office's budget has grown by 240 percent, this increase has not translated into a real improvement in access to justice or in the handling of cases.<sup>451</sup> In contrast, in criminal proceedings, the MP swiftly pushes forward investigations, evidencing a policy of selective criminal prosecution for political purposes.<sup>452</sup>

235. In this regard, during its on-site visit, the IACtHR received testimony from prosecutors from the Public Prosecutor's Office who reported that they were pressured to dismiss cases. They also noted that under the current administration of the Public Prosecutor, they were

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<sup>448</sup> Convergence for Human Rights, "Expensive, inefficient, and corrupt: evaluation of the MP during the administration of Attorney General Consuelo Porras," November 2024, p. 33, on file with the IACtHR; Plaza Pública, "[The report that exposes the inefficiency of the Public Ministry under Consuelo Porras](#)," November 27, 2024.

<sup>449</sup> Convergencia por los Derechos Humanos, "Expensive, inefficient, and corrupt: evaluation of the MP during the administration of Attorney General Consuelo Porras," November 2024, p. 33, on file with the IACtHR; Plaza Pública, "[The report that exposes the inefficiency of the Public Prosecutor's Office under Consuelo Porras](#)," November 27, 2024.

<sup>450</sup> Plaza Pública, "[The report that exposes the inefficiency of the Public Prosecutor's Office under Consuelo Porras](#)," November 27, 2024; Plaza Pública, "[A Public Prosecutor's Office that boasts of 'responding' to complaints](#)," October 29, 2024.

<sup>451</sup> Plaza Pública, "[The report that exposes the inefficiency of the Public Prosecutor's Office under Consuelo Porras](#)," November 27, 2024; Plaza Pública, "[A Public Prosecutor's Office that boasts of 'responding' to complaints](#)," October 29, 2024.

<sup>452</sup> See *supra*, paras. 141 and 183.

given very limited time to conduct investigations, which resulted in cases being closed due to lack of merit. According to the testimonies, under the current administration, these practices have affected prosecutorial independence and the Public Prosecutor's Office's ability to guarantee access to justice.<sup>453</sup>

236. On the other hand, organizations provided the IACtHR with systematized information showing that emblematic corruption cases are concentrated among a specific group of judges whose decisions have favored impunity. Among the procedural benefits are dismissals, alternative measures, and the annulment of proceedings. Likewise, some judges have adopted different criteria depending on the type of case; for example, while in criminal proceedings they generally order pretrial detention, in corruption cases they have granted procedural benefits. Information has also been received about a change in approach to asset forfeiture proceedings, which, instead of targeting significant assets linked to criminal activities, would focus on less significant assets, such as vehicles, limiting their effectiveness in combating corruption and organized crime.<sup>454</sup> For example, between 2021 and 2023, not a single piece of real estate was seized or forfeited; in 2024, two properties were seized and six were forfeited, all linked to actions initiated in previous years.<sup>455</sup>

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<sup>453</sup> Private meeting held during the IACtHR visit; information provided by the Institute for Comparative Studies in Criminal Sciences of Guatemala (ICCPG) during the on-site visit, on file with the IACtHR.

<sup>454</sup> INECIP, "Effectiveness or impunity? The performance of the Public Prosecutor's Office during Consuelo Porras's term, 2018-2025," p. 64, on file with the IACtHR.

<sup>455</sup> INECIP, "Effectiveness or impunity? The performance of the Public Prosecutor's Office during Consuelo Porras's term, 2018-2025," p. 64, on file with the IACtHR.

237. Below is a table with examples of these decisions.

**Table. Judges accused of unduly favoring the closure of corruption cases**

Judges	Corruption cases	Decisions
Judge Marta Claudette Domínguez High Risk Court "A"	Ghost jobs in Congress	Dismissal in favor of nine individuals
Jimi Rodolfo Bremer Judge of First Instance for Criminal Matters, Drug Trafficking, and Crimes Against the Environment	Parallel Commissions 2014, and 2020	Arrest warrant against former judge Mynor Moto and Dennis Herrera overturned, and three defendants acquitted
Abelina Cruz Toscano High Risk Court "D"	Chimaltenango Bypass	Alternative measures and acceptance of charges
	Construction and corruption	Dismissal
	Odebrecht	Acceptance of charges, dismissal, annulment of proceedings
	Assault on the Ministry of Health	Dismissal
	La Línea	Alternative measures and sentences with financial bail
	Co-opting of the State	Acceptance of charges and dismissal
	Illegal Election Financing UNE	Alternative measures
Third Appeals Chamber	Case B410	Granted conditional release to the main defendant in the macro corruption case.

*Source: Prepared by the IACtHR based on public information and information provided by civil society*

238. Finally, as discussed in the following chapter, the IACtHR notes that manipulation of the justice system has contributed to stagnation and setbacks in transitional justice processes related to the internal armed conflict. In this context, the IACtHR observes the Guatemalan State's sustained failure to comply with its obligation to investigate, prosecute, and punish serious past and present human rights violations, as well as to combat impunity and structural corruption.

# TRANSITIONAL JUSTICE

## TRANSITIONAL JUSTICE

239. During its on-site visit, the IACtHR found that structural impunity for crimes committed during the internal armed conflict continues to be a challenge in Guatemala, which has been exacerbated by the loss of independence of the justice system and the dismantling of the institutions created by the Peace Accords.<sup>456</sup>

240. Indeed, after a period of significant progress in access to justice for victims and their families, marked by the prosecution of emblematic cases<sup>457</sup>, since 2017 these achievements have been gradually undermined by power structures interested in perpetuating impunity, through the co-opting of the bodies responsible for investigating and prosecuting past crimes, and the criminalization of justice operators. The IACtHR included Guatemala in Chapter IV.B of its 2021 Annual Report, noting that the intensification of interference with the independence of the justice system, together with the weakening of human rights institutions and institutions for peace, had constituted a "systematic failure by the State to comply with its obligation to combat impunity, attributable to a manifest lack of will".<sup>458</sup>

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<sup>456</sup> See IACtHR, [Human Rights Situation in Guatemala](#), OAS/Ser.L/V/II. Doc. 43/15, December 31, 2015, para. 391; IACtHR, [Situation of Human Rights in Guatemala](#), OEA/Ser.L/V/II. Doc. 208/17, December 31, 2017, paras. 54, 55.

<sup>457</sup> IACtHR, [Situation of Human Rights in Guatemala](#), OEA/Ser.L/V/II. Doc. 43/15, December 31, 2015, paras. 423-430. Similarly, during the visit, the victims stated that the struggle they have waged for many years, with the support of civil society organizations, began to yield official results with the progress of investigations and the arrival of landmark cases in the courts. National Platform of Organizations of Victims of the Armed Conflict, Meeting with the IACtHR, July 23, 2024, on file with the IACtHR; IACtHR, Meeting with Victims and Civil Society Organizations for Memory, Truth, and Justice, July 23, 2024, on file with the IACtHR.

<sup>458</sup> IACtHR, [Annual Report 2021, Chapter IV.B Guatemala](#), OEA/Ser.L/V/II. Doc. 64 rev. 1, May 26, 2022, para. 10.

## **A. Impunity for serious crimes committed during the internal armed conflict**

241. During its visit to the country, the IACtHR received information from victims and civil society organizations that warned of the evident setback in transitional justice cases currently being processed.<sup>459</sup> They also expressed their outrage at the revictimization experienced by survivors and relatives of victims in their search for justice in the face of the State's lack of response.<sup>460</sup>

242. Based on the information and testimonies received, the Commission identified two patterns that have contributed to perpetuating impunity. On the one hand, the weakening of the institutions that have undertaken efforts to clarify the facts and determine responsibility for serious human rights violations.<sup>461</sup> On the other hand, the malicious use of legal resources, as well as the adoption of judicial decisions aimed at hindering or reversing the progress made, all in a context of lack of independence of the justice system.<sup>462</sup>

243. With regard to the weakening of the bodies responsible for investigating past crimes, civil society organizations denounced the dismantling of the Human Rights Prosecutor's Office and, in particular, the Special Unit for Cases of Internal Armed Conflict

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<sup>459</sup> Center for Legal Action on Human Rights, Meeting with the IACtHR, July 23, 2024, on file with the IACtHR; Myrna Mack Foundation, Report on the Situation of Transitional Justice in Guatemala, July 2024, on file with the IACtHR.

<sup>460</sup> National Platform of Organizations of Victims of Armed Conflict, Meeting with the IACtHR, July 23, 2024, on file with the IACtHR.

<sup>461</sup> Myrna Mack Foundation, Report on the Situation of Transitional Justice in Guatemala, July 2024, on file with the IACtHR; Human Rights Law Firm, Report for on-site visit, August 12, 2024, on file with the IACtHR.

<sup>462</sup> Supervisory Panel for Compliance with Judgments of the Inter-American Court of Human Rights against the State of Guatemala, Intervention in dialogue with civil society Memory, Truth, and Justice in the context of the IACtHR's on-site visit to Guatemala (July 22-26, 2024), July 23, 2024, on file with the IACtHR; Myrna Mack Foundation, Report on the Situation of Transitional Justice in Guatemala, July 2024, on file with the IACtHR.

(UCAI). They noted that this process was characterized by the transfer or removal of prosecutors who were part of that Unit and the lack of adequate security measures for their protection.<sup>463</sup> In 2021, the IACtHR documented the transfer of Hilda Pineda, head of the Human Rights Prosecutor's Office.<sup>464</sup> Subsequently, her successor, Tomás Ramírez López, remained in office until December 2024, when he was replaced by a prosecutor known for his involvement in criminal proceedings against justice operators and for his links to the Foundation against Terrorism and the Association of Military Veterans of Guatemala.<sup>465</sup> That same month, prosecutors Erick Giovanni de León Morataya and Cándida Mercedes Morales Santos were dismissed in the midst of their trial against General Manuel Benedicto Lucas García for the Ixil genocide.<sup>466</sup> Likewise, in November 2024, the IACtHR learned of the transfer of at least 11

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<sup>463</sup> Center for Legal Action on Human Rights, Guatemalan Human Rights Commission in Washington GHRC, Human Rights Law Firm, Center for Justice and International Law, Association of Relatives of Detained and Disappeared Persons of Guatemala FAMDEGUA, Case of Violence against Maya Achí Women and Case of the Cumbre de Alaska Massacre, Request for a thematic hearing 192nd Session, “Patterns of Impunity in Access to Transitional Justice and Structural Obstacles to Access to Memory, Truth, and Justice in Guatemala,” December 3, 2024 (hereinafter “CALDH, et al., Request for a thematic hearing, 192nd session, December 3, 2024”); Myrna Mack Foundation, Report on the Situation of Transitional Justice in Guatemala, July 2024, on file with the IACtHR.

<sup>464</sup> IACtHR, [Annual Report 2021. Chapter IV.B Guatemala](#), OEA/Ser.L/V/II. Doc. 64 rev. 1, May 26, 2022, para. 59; IACtHR, [Annual Report 2022](#), Chap. IVB: Guatemala, OEA/Ser.L/V/II. Doc. 50 rev. 1, April 1, 2023, para. 92.

<sup>465</sup> Prensa Comunitaria, [Consuelo Porras hands over Human Rights Prosecutor's Office to person accused of corruption](#), December 3, 2024; EP investigates, [MP makes changes to Human Rights Prosecutor's Office](#), December 3, 2024; CALDH et al., Request for thematic hearing 192nd Session, December 3, 2024.

<sup>466</sup> Prensa Comunitaria, [Setback in prosecuting cases related to the internal armed conflict before the IACtHR denounced](#), March 5, 2025; Prensa Comunitaria, [Public Prosecutor's Office keeps Semilla party captive while sharpening its persecution of the TSE and SAT](#), December 4, 2024; Factor4, [Justice on Hold: Delay in Ixil Genocide Trial Generates National and International Outrage](#), December 3, 2024; Ocote, [From Counterinsurgency Military Commander to Genocide Defendant](#), May 29, 2024.

other prosecutors who were members of the UCAI, which would have affected the continuity of the investigations.<sup>467</sup>

244. Following its visit, the IACtHR requested information from the Public Prosecutor's Office on the measures taken to strengthen the Human Rights Prosecutor's Office.<sup>468</sup> In response, the Public Prosecutor's Office indicated that it has a Human Rights Policy for Criminal Prosecution, which establishes that, within its sphere of action, it must guarantee human rights and develop the necessary mechanisms to ensure the effective exercise of the right to truth, justice, comprehensive reparation, and guarantees of non-repetition.<sup>469</sup>
245. Furthermore, civil society organizations informed the IACtHR about the impact of a series of arbitrary transfers of judges and the appointment of magistrates without the necessary knowledge and experience to act in cases related to the internal armed conflict, in violation of technical criteria, merit, and judicial career.<sup>470</sup> In particular, they expressed concern about the dismantling of the High Risk Courts.<sup>471</sup> As highlighted by the IACtHR, these courts and tribunals, with jurisdiction to hear high-impact cases of crimes related to organized crime, human rights violations, and

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<sup>467</sup> SWI, [14 Guatemalan prosecutors who investigated a case of genocide against indigenous people dismissed](#), November 14, 2024; Prensa Comunitaria, [Setback in prosecuting cases of internal armed conflict before the IACtHR denounced](#), March 5, 2025.

<sup>468</sup> IACtHR, Request for Information from the State of Guatemala, REF: Guatemala – Supplementary information on the IACtHR's on-site visit, IACtHR/SE/Art. 41/12-2024/502, January 3, 2025, Annex 3.

<sup>469</sup> State of Guatemala, Public Prosecutor's Office, Secretariat for International Affairs and Cooperation, Official Letter SAIC/G2025-000079/smcdrcimo, February 3, 2025, Note Verbale OAS-M4-NV-026-2025, February 18, 2025.

<sup>470</sup> Human Rights Law Firm, Report for on-site visit, August 12, 2024, on file with the IACtHR.

<sup>471</sup> CALDH et al., Request for thematic hearing 192nd Session, December 3, 2024; Human Rights Law Firm, Report for on-site visit, August 12, 2024, on file with the IACtHR.

corruption<sup>472</sup>, have been crucial in combating past and present impunity.<sup>473</sup> However, since the CICIG left the country, judges who are members of these courts have been victims of criminalization and threats because of the work they have done, which was intended to weaken this framework in order to promote impunity.<sup>474</sup>

246. In addition, victims and civil society organizations described other forms of undue pressure and reprisals against those who act or have acted against impunity in transitional justice cases.<sup>475</sup> Among other patterns, they denounced the filing of unfounded complaints and criminal prosecution by private entities—primarily the Foundation Against Terrorism—directed at prosecutors, judges, witnesses, victims, their legal teams, and human rights organizations accompanying the cases, with the aim of intimidating them; smear and stigmatization campaigns; and harassment on social media and at courthouses or tribunals.<sup>476</sup> They indicated that

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<sup>472</sup> High-risk courts and tribunals were created in Guatemala in 2009, with the support and recommendation of the CICIG, to hear cases involving serious human rights violations, corruption, and organized crime. In 2008, CICIG presented a proposal to concentrate high-impact cases in courts in the capital. Months later, Decree 21-2009, Law on Criminal Jurisdiction in High-Risk Cases, was published, approved as a matter of national urgency by the Congress of the Republic on August 4, 2009. See Nonfiction, "[The CICIG's scaffolding that unveiled a criminal system](#)," February 23, 2021. Also, National Economic Research Center (CIEN), "High-Risk Courts: Analysis and Challenges," November 2019.

<sup>473</sup> International Commission against Impunity in Guatemala, [Final Closing Report: The Legacy of Justice in Guatemala](#), August 2019, pp. 61, 62; IACtHR, [Situation of Human Rights in Guatemala](#), OEA/Ser.L/V/II. Doc. 43/15, December 31, 2015, para. 393.

<sup>474</sup> IACtHR, [Annual Report 2022. Chapter IV.B Guatemala](#), OEA/Ser.L/V/II. Doc. 50 rev. 1, April 1, 2023, para. 60.

<sup>475</sup> CALDH et al., Request for thematic hearing 192nd session, December 3, 2024; Myrna Mack Foundation, Report on the Situation of Transitional Justice in Guatemala, July 2024, on file with the IACtHR.

<sup>476</sup> National Platform of Organizations of Victims of the Armed Conflict, Meeting with the IACtHR, July 23, 2024, on file with the IACtHR; Center for Legal Action on Human Rights, Meeting with the IACtHR, July 23, 2024, on file with the IACtHR; CALDH et al., Request for thematic hearing, 192nd Session, December 3, 2024.

one of the observed effects of this persecution would be the stagnation of the proceedings.<sup>477</sup>

247. In recent years, the Commission has granted precautionary measures and documented various cases of individuals affected by criminalization and threats to their integrity and life, resulting in their resignation from their positions and/or exile, among other serious consequences for their professional and personal lives.<sup>478</sup> Civil society organizations reported that, in this context, more than 50 justice operators have been forced into exile<sup>479</sup>, including judges Miguel Ángel Gálvez Aguilar and Pablo Xitumul, as well as prosecutors Claudia Paz y Paz, Elena Gregoria Sut Ren, Orlando Salvador López, and Érika Aifán, who made a decisive contribution to the prosecution of cases of serious human rights violations committed during the period of armed conflict.<sup>480</sup> They also denounced before the Commission the serious criminal persecution

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<sup>477</sup> Myrna Mack Foundation, Report on the Situation of Transitional Justice in Guatemala, July 2024, on file with the IACtHR; Human Rights Law Firm, Report for on-site visit, August 12, 2024, on file with the IACtHR.

<sup>478</sup> IACtHR, [Situation of Human Rights in Guatemala](#), OEA/Ser.L/V/II. Doc. 43/15, December 31, 2015, paras. 385, 387; IACtHR, Annual Report 2016, [Chapter V. Follow-up report on recommendations made by the IACtHR in the Report on the Human Rights Situation in Guatemala](#), paras. 99-101; IACtHR, [Human Rights Situation in Guatemala](#), OEA/Ser.L/V/II. Doc. 208/17, December 31, 2017, paras. 199-203; IACtHR, Annual Report 2019, [Chapter V. Second Follow-up Report on Recommendations Made by the IACtHR in the Report on the Situation of Human Rights in Guatemala](#), paras. 174-181; IACtHR, Annual Report 2020, [Chapter V. Third Follow-up Report on Recommendations Made by the IACtHR in the Report on the Situation of Human Rights in Guatemala](#), paras. 51, 161-162, 166, 168, 169; IACtHR, [Annual Report 2021. Chapter IV.B Guatemala](#), OEA/Ser.L/V/II. Doc. 64 rev. 1, May 26, 2022, paras. 57-59, 65-69, 71, 74, 77; IACtHR, [Annual Report 2022. Chapter IV.B Guatemala](#), OAS/Ser.L/V/II. Doc. 50 rev. 1, April 1, 2023, paras. 8-11, 15, 17, 20, 32-73, 90, 92, 95; IACtHR, [Annual Report 2023. Chapter IV.B Guatemala](#), OEA/Ser.L/V/II. Doc. 386 rev. 1, December 31, 2023, paras. 104-135.

<sup>479</sup> Census of justice operators in exile from Guatemala as of July 2024, prepared by former justice operators, on file with the IACtHR.

<sup>480</sup> National Platform of Organizations of Victims of Armed Conflict, Meeting with the IACtHR, July 23, 2024, on file with the IACtHR; Myrna Mack Foundation, Report on the Situation of Transitional Justice in Guatemala, July 2024, on file with the IACtHR; Center for Legal Action on Human Rights, Meeting with the IACtHR, July 23, 2024, on file with the IACtHR.

brought against the Molina Theissen family by military personnel convicted of crimes committed against Marco Antonio Theissen and Emma Guadalupe Molina Theissen<sup>481</sup>, based on an unfounded complaint that remained pending for more than five years, resulting in intimidation and revictimization.<sup>482</sup>

248. In this regard, the Inter-American Court has recognized that in Guatemala there continues to be a context of persecution of victims, family members, plaintiffs, and judicial operators involved in criminal proceedings for serious violations committed during the armed conflict.<sup>483</sup> In this regard, actions such as harassment on social media and criminal complaints against these actors have been identified as attempts at intimidation, with the aim of preventing the clarification of the facts and obstructing the prosecution of these crimes.<sup>484</sup> The IACtHR considers that institutionalized intimidation

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<sup>481</sup> Impunity Watch, Washington Office on Latin America, Center for Justice and International Law, Guatemala Human Rights Commission, Due Process of Law Foundation, Robert F. Kennedy Human Rights, Latin America Working Group, [Molina Theissen Case: Guatemala Must Guarantee Justice for Victims of Serious Human Rights Violations](#), February 10, 2025; Center for Legal Action on Human Rights, Meeting with the IACtHR, July 23, 2024, on file with the IACtHR.

<sup>482</sup> Cf. Inter-American Court of Human Rights, Molina Theissen v. Guatemala, Supervision of Compliance with Judgment, Resolution of the Inter-American Court of Human Rights of March 14, 2019, Consideration 32; Inter-American Court of Human Rights. Case of Molina Theissen v. Guatemala, Request for Provisional Measures and Supervision of Compliance with the Judgment, Resolution of the Inter-American Court of Human Rights of September 4, 2023, paras. 57-60.

<sup>483</sup> Inter-American Court of Human Rights, Case of Gudiel Álvarez et al. ("Diario Militar") v. Guatemala, Provisional Measures and Supervision of Compliance with the Judgment, Resolution of the Inter-American Court of Human Rights of September 9, 2022, para. 32; Inter-American Court of Human Rights, Case of Members of the Village of Chichupac and Neighboring Communities of the Municipality of Rabinal, Case of Molina Theissen et al. 12 Guatemalan Cases v. Guatemala, Provisional Measures and Supervision of Compliance with the Judgment, Resolution of the Inter-American Court of Human Rights of October 20, 2023, para. 30.

<sup>484</sup> IACtHR, Case of Gudiel Álvarez et al. ("Diario Militar") v. Guatemala, Provisional Measures and Supervision of Compliance with the Judgment, Resolution of the Inter-American Court of Human Rights of September 9, 2022, para. 32; Inter-American Court, Cases of Bámaca Velásquez, Maritza Urrutia, Plan de Sánchez Massacre, Chitay Nech et al., Río Negro Massacres, and Gudiel Álvarez et al. ("Diario Militar") v. Guatemala, Provisional Measures and Supervision of Compliance with the Judgment, Resolution of the Inter-American Court of Human Rights of November 22, 2022, para. 35.

and punishment or reprisals against individuals who dared to break the silence on the atrocious crimes of that period send a deterrent message not only to those seeking justice, but also to public officials who perform their duties fully, and to society as a whole.

249. The Commission emphasizes that the effectiveness of the investigation and the guarantee of due process are intrinsically linked to judicial independence. Therefore, the State has an obligation to ensure that justice operators can exercise their constitutional and legal functions without intimidation, obstacles, harassment, undue interference, or unjustified risk of incurring civil, criminal, or other liability.<sup>485</sup> Criminal law must not be used as a mechanism to intimidate this work or the participation of victims and their representatives in cases, and States must adopt measures to ensure that third parties do not act for this purpose either.<sup>486</sup>
250. As mentioned above, another pattern aimed at promoting impunity is manifested in the "active obstruction of investigations, as well as the permissiveness and complicity of judges in the malicious use of resources, judicial decisions that are openly illegal and contrary to international obligations, and the permanent threat of amnesty laws".<sup>487</sup>
251. According to the information received, in various transitional justice cases, the criminalization, harassment, and persecution of justice operators has led to their removal and replacement by ad hoc justice

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<sup>485</sup> IACtHR, Case of Gudiel Álvarez et al. ("Diario Militar") v. Guatemala, Provisional Measures and Supervision of Compliance with the Judgment, Resolution of the Inter-American Court of Human Rights of September 9, 2022, para. 36; IACtHR, Case of Molina Theissen v. Guatemala, Request for Provisional Measures and Supervision of Compliance with Judgment, Resolution of the Inter-American Court of Human Rights of September 4, 2023, para. 47.

<sup>486</sup> IACtHR, Cases of Bámaca Velásquez, Maritza Urrutia, Plan de Sánchez Massacre, Chitay Nech et al., Río Negro Massacres, and Gudiel Álvarez et al. ("Diario Militar") vs. Guatemala, Provisional Measures and Supervision of Compliance with Judgment, Resolution of the Inter-American Court of Human Rights of November 22, 2022, para. 37.

<sup>487</sup> Monitoring Panel for Compliance with the Judgment of the Inter-American Court of Human Rights against the State of Guatemala, Intervention in dialogue with civil society in the context of the IACtHR's on-site visit, July 23, 2024, on file with the IACtHR.

operators, who issue arbitrary rulings to favor those under investigation or prosecution.<sup>488</sup> As indicated, both in the Public Prosecutor's Office and in the Judiciary, different instances have been questioned for the annulment of sentences, the dismissal of cases, the revocation of arrest warrants, the granting of alternative measures, the exclusion of evidence, the lack of progress in different cases, among other actions and omissions.<sup>489</sup> Likewise, the organizations denounced a pattern of malicious litigation promoted by the defense of the accused and the public criminal defense, which includes unjustified delays, the arbitrary use of amparo actions, and challenges without legal basis.<sup>490</sup> This scenario has affected cases with judgments from the Inter-American Court, resulting in the granting of various provisional measures to guarantee victims' access to justice<sup>491</sup>, as described below.

252. In the case of the **Dos Erres Massacre**, on November 7, 2023, the High Risk Court "E" issued a ruling acquitting three people accused of participating in the massacre and multiple human rights violations

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488 Myrna Mack Foundation, Report on the Situation of Transitional Justice in Guatemala, July 2024, on file with the IACtHR; Center for Legal Action on Human Rights, Meeting with the IACtHR, July 23, 2024, on file with the IACtHR.

489 CALDH et al., Request for a thematic hearing, 192nd session, December 3, 2024; IACtHR, [Annual Report 2023. Chapter IV.B Guatemala](#), OEA/Ser.L/V/II. Doc. 386 rev. 1, December 31, 2023, para. 137; Agencia Ocote, "[Justice in Guatemala is further away: three cases that explain it](#)," July 14, 2023; Plaza Pública, [The reconfiguration of justice post-CICIG: 118 defendants benefit under Porras's MP](#), June 18, 2024, Plaza Pública, "[X-ray of the FEIC-CICIG cases: 83 beneficiaries so far](#)," December 5, 2022; WOLA, [When the Dominoes Fall: Co-optation of the Justice System in Guatemala](#), October 2022; Impunity Watch, [Achievements and Setbacks of Transitional Justice in Guatemala. Monitoring Report 2018-2021](#), November 2021, pp. 29-61.

490 CALDH et al., Request for thematic hearing, 192nd session, December 3, 2024.

491 By way of example, in 2024 alone, the Court issued three provisional measures addressing the above-mentioned issues: Case of the Las Dos Erres Massacre v. Guatemala, Provisional Measures and Supervision of Compliance with the Judgment, Resolution of the Inter-American Court of Human Rights of September 2, 2024; Case of Molina Theissen v. Guatemala, Request for Provisional Measures and Supervision of Compliance with the Judgment, Resolution of the Inter-American Court of Human Rights of September 2, 2024; Case of the Las Dos Erres Massacre v. Guatemala, Provisional Measures and Supervision of Compliance with the Judgment, Resolution of the Inter-American Court of Human Rights of September 2, 2024.

against more than 200 people, ordering their immediate release and the destruction of the material evidence presented at trial.<sup>492</sup> According to the information provided, the court did not give probative value to expert opinions and the testimonies of several survivors who, despite their advanced age and health conditions, were forced to testify more than once during the proceedings.<sup>493</sup> In addition to the lack of rigorous and consistent analysis of the evidence, the IACtHR heard criticism regarding the court's deficient legal reasoning and failure to apply international human rights standards.<sup>494</sup> The decision was upheld on appeal, but is still being processed in another appeal.<sup>495</sup> In light of these facts, the Inter-American Court ordered the State of Guatemala to refrain from destroying the material evidence gathered in the criminal proceedings, in order to guarantee the victims' right of access to justice.<sup>496</sup>

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<sup>492</sup> La Prensa Libre, [Dos Erres Massacre: court acquits three former soldiers for the murder of at least 200 people in 1982](#), November 7, 2023; Prensa Comunitaria, [Appeal of court ruling that acquitted three former soldiers in the Dos Erres case](#), November 28, 2023; Prensa Comunitaria, [Inter-American Court orders the State of Guatemala to preserve evidence in the Las Dos Erres case](#), September 10, 2024; Myrna Mack Foundation, Report on the Situation of Transitional Justice in Guatemala, July 2024, on file with the IACtHR; CALDH et al., Request for a thematic hearing, 192nd Session, December 3, 2024.

<sup>493</sup> Human Rights Law Firm, Report for on-site visit, August 12, 2024, on file with the IACtHR; CEJIL, [Guatemala: We demand a fair sentence in the Las Dos Erres Massacre case](#), November 7, 2023; La Prensa Libre, [Dos Erres Massacre: Court Acquits Three Former Military Personnel for the Murder of at Least 200 People in 1982](#), November 7, 2023; Prensa Comunitaria, [Appeal Filed Against Court Ruling Acquitting Three Former Kaibiles in Dos Erres Case](#), November 28, 2023; CALDH et al., Request for thematic hearing, 192nd Session, December 3, 2024.

<sup>494</sup> Inter-American Court of Human Rights, Case of the Las Dos Erres Massacre v. Guatemala, Provisional Measures and Supervision of Compliance with the Judgment. Resolution of the Inter-American Court of Human Rights of September 2, 2024.

<sup>495</sup> Prensa Comunitaria, [Dos Erres Case: Chamber confirms ruling acquitting three kaibiles](#), May 20, 2024; Human Rights Law Firm, Report for on-site visit, August 12, 2024, on file with the IACtHR

<sup>496</sup> Inter-American Court of Human Rights, Case of the Las Dos Erres Massacre v. Guatemala. Provisional Measures and Supervision of Compliance with Judgment. Resolution of the Inter-American Court of Human Rights of September 2, 2024, Operative Paragraph 1; Inter-American Court of Human Rights. Case of the Las Dos Erres Massacre v. Guatemala, Request for Provisional Measures. Resolution of the Inter-American Court of Human Rights of November 29, 2023, Operative Paragraph 2.

253. In relation to the Diario Militar case, the Commission documented substantial setbacks beginning in November 2022, including the improper granting of alternative measures to imprisonment in favor of the accused, through resolutions issued by the magistrates who took over Court "B" for High Risk Cases<sup>497</sup> after the forced exile of the presiding judge, Miguel Ángel Gálvez. As indicated, Judge Gálvez was the beneficiary of protective measures ordered by the Inter-American Court, due to the risks to the independent exercise of his judicial functions, as well as to his life and integrity.<sup>498</sup> Likewise, in April 2023, the prosecutor in charge of the case, Elena Sut, was transferred to another specialized prosecutor's office, in violation of the provisional measures issued by the Inter-American Court.<sup>499</sup> According to the information received, in recent months, new resolutions were issued to halt the prosecution, annul arrest warrants, and grant benefits to the defendants, which do not comply

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<sup>497</sup> IACtHR, [Annual Report 2023. Chapter IV.B Guatemala](#), OEA/Ser.L/V/II. Doc. 386 rev. 1 December 31, 2023, paras. 139-140; IACtHR, [Annual Report 2022. Chapter IV.B Guatemala](#), OEA/Ser.L/VII. Doc. 50 rev. 1, April 1, 2023, para. 105; Center for Legal Action on Human Rights, Meeting with the IACtHR, July 23, 2024, on file with the IACtHR; Myrna Mack Foundation, Report on the Situation of Transitional Justice in Guatemala, July 2024, on file with the IACtHR.

<sup>498</sup> Inter-American Court of Human Rights, Case of Gudiel Álvarez et al. ("Diario Militar") v. Guatemala, Adoption of Urgent Measures, Resolution of the President of the Inter-American Court of Human Rights, July 8, 2022; Inter-American Court of Human Rights, Case of Gudiel Álvarez et al. ("Military Diary") v. Guatemala, Provisional Measures and Supervision of Compliance with the Judgment, Resolution of the Inter-American Court of Human Rights of September 9, 2022.

<sup>499</sup> Inter-American Court of Human Rights, Cases of Bámaca Velásquez, Maritza Urrutia, Plan de Sánchez Massacre, Chitay Nech et al., Río Negro Massacres, and Gudiel Álvarez et al. ("Diario Militar") v. Guatemala, Adoption of Urgent Measures, Resolution of the President of the Inter-American Court of Human Rights of July 11, 2022; Inter-American Court of Human Rights, Cases of Bámaca Velásquez, Maritza Urrutia, Plan de Sánchez Massacre, Chitay Nech et al., Río Negro Massacres, and Gudiel Álvarez et al. ("Diario Militar") v. Guatemala, Provisional Measures and Supervision of Compliance with the Judgment, Resolution of the Inter-American Court of Human Rights of November 22, 2022.

with inter-American standards that require exceptionality and high rigor in cases of serious human rights violations.<sup>500</sup>

254. Regarding the Creompaz case, related to the 558 skeletal remains found at the Regional Peacekeeping Operations Training Command, civil society organizations reminded the IACtHR of the decisions of the First Instance Criminal Court, Drug Trafficking and Crimes against the Environment of High Risk "A" which, when opening the trial in 2016, excluded two of the ten defendants from the case and failed to rule on the facts related to allegations of sexual violence, excluding almost 80% of the victims in the case.<sup>501</sup> They added that the process has been stalled for several years due to procedural delays promoted by the Public Prosecutor's Office and the parties.<sup>502</sup>
255. In relation to the same case, on February 20, 2024, the CC ruled on an appeal filed by the defendants, which closed the criminal

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<sup>500</sup> Human Rights Law Firm, Report for on-site visit, August 12, 2024, on file with the IACtHR; AP News, Guatemala: [Court orders release of man accused of crimes against humanity](#), March 20, 2025; Prensa Comunitaria, [Diario Militar: CC orders release of Colonel Jacobo Salán Sánchez](#), December 17, 2024; Prensa Comunitaria, [Diario Militar: Ruling revoking arrest warrants for two suspects upheld](#), December 13, 2024; Prensa Comunitaria, [Diario Militar: Judge releases two military personnel accused of serious crimes](#), March 15, 2024; Prensa Comunitaria, [Diario Militar: CC rules in favor of Colonel Salán Sánchez and halts order to send him to trial](#), February 27, 2024.

IACtHR, Pardons, commutations of sentences, and undue prison benefits are a form of impunity for serious human rights violations, March 24, 2024; IACtHR, [Resolution No. 1/2020 Pandemic and Human Rights in the Americas](#), April 10, 2020, para. 46.

<sup>501</sup> La Cuerda, ["Omitting sexual crimes from the CREOMPAZ case revictimizes the Mayan women who dared to break their silence."](#) December 11, 2020; Prensa Comunitaria, [Creompaz Case: The CC Will Determine the Prosecution of the Crime of Sexual Violence](#), December 14, 2020; Plaza Pública, Opinion, [The Creompaz Case, Stalled by Unresolved Appeals](#), June 19, 2017.

<sup>502</sup> Center for Legal Action on Human Rights, Meeting with the IACtHR, July 23, 2024, in the IACtHR archives; Association for the Integral Development of Victims of Violence in Las Verapaces, Maya Achí ADIVIMA, Report on compliance in the case of the Río Negro Massacres v. Guatemala, July 22, 2024, on file with the IACtHR; Human Rights Law Firm, Report for on-site visit, August 12, 2024, on file with the IACtHR; International Justice Monitor, [Tied Up in Appeals, CREOMPAZ Enforced Disappearance Case Remains Stalled](#), June 13, 2017.

proceedings against several military personnel.<sup>503</sup> In addition to the above, the Commission learned that, on November 5, 2024, the Second Chamber of Appeals resolved another appeal filed by one of the defendants, declaring the High Risk Court "A" incompetent and annulling all procedural acts carried out in the case, which resulted in the release of the military personnel allegedly responsible.<sup>504</sup> The IACHR expressed its concern and recalled that all factual and legal obstacles that perpetuate impunity must be eliminated.<sup>505</sup> It also warned that the appeal for protection should not be used as a mechanism to delay or obstruct the judicial process. In addition, the IACHR notes that these decisions were adopted one day after the dismissal of the prosecutor in charge of the case, Érick de León, and in the context of the installation of a new composition of the Second Appeals Chamber.<sup>506</sup>

256. On the other hand, the criminal case against Manuel Benedicto Lucas García for the Ixil Genocide case began its trial phase in April 2024, five years after its reactivation in 2019.<sup>507</sup> The trial had formally begun in 2021, under the direction of Judge Miguel Ángel Gálvez,

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503 La Hora Guatemala, [CC upholds proceedings against several former military personnel accused in the Creompaz case](#), February 20, 2024; Prensa Libre, [CC confirms judge's ruling to close proceedings against military personnel accused in the Creompaz case](#), February 20, 2024.

504 AP News, [Guatemala: Court overturns proceedings against military personnel in high-profile case of forced disappearances](#), November 5, 2024; Prensa Comunitaria, [Court overturns Creompaz case and orders release of military personnel accused of forced disappearance](#), November 5, 2024; Prensa Libre, [Second Appeals Court overturns Creompaz case and orders release of accused military personnel](#), November 5, 2024.

505 IACHR [@CIDH], "#Guatemala: The #IACHR expresses its concern over the decision of the Second High Risk Appeals Court to declare the High Risk Court 'A' incompetent, release the military personnel allegedly responsible, and dismiss all proceedings in the #Creompaz case, related to the forced disappearance of 558 people during the armed conflict. The decision was made after an appeal was filed by one of the military personnel under investigation," November 8, 2024.

506 Plaza Pública, [Newly installed Appeals Chamber deals blow to transitional justice](#), November 7, 2024; Agencia Ocote, [Creompaz: The torture center that gives its victims no peace](#), November 8, 2024.

507 IACHR, Annual Report 2019, [Chapter V, Second Follow-up Report on Recommendations Made by the IACHR in the Report on the Situation of Human Rights in Guatemala](#), para. 73.

but was interrupted after his forced exile.<sup>508</sup> Subsequently, in 2023, the trial was delayed when the High Risk Court "A" accepted the recusal of Judge Andrea Julieta Lobos Luna for being related to a person involved.<sup>509</sup> On November 4, 2024, prosecutor Erick de León, who was also acting in this case, was dismissed during the final stages of the trial.<sup>510</sup> In this context, the IACtHR is concerned about the decision adopted on November 28, 2024, when the First High Risk Appeals Chamber accepted the recusal of High Risk Court "A," based on an appeal filed by the Institute of Public Criminal Defense for alleged bias in the hearings. As a result, the case was reassigned to High Risk Court "B," which prevented the issuance of a judgment in a trial that was in its final stage after more than seven months of hearings, 90 sessions, and the testimony of 150 people.<sup>511</sup>

257. In addition to the above, the IACtHR was informed of allegations of excessive formalism on the part of the judiciary to unjustifiably limit the right to evidence. In particular, in May 2022, in the case against Luis Enrique Mendoza García for genocide, the High Risk "C" judge refused to hear 30 witnesses<sup>512</sup>, considering that the information should have been included in a form provided at the beginning of the

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508 Prensa Comunitaria, [Ixil Genocide: Judge Gálvez sends Generals Benedicto Lucas and Manuel Antonio Callejas y Callejas to trial](#), August 30, 2021; WOLA, [Genocide trial against senior military officers begins in Guatemala](#), January 6, 2023.

509 Center for Legal Action on Human Rights, Meeting with the IACtHR, July 23, 2024, on file with the IACtHR; Prensa Comunitaria, [Questions raised about the presiding judge of the newly appointed Money Laundering Court](#), April 17, 2023.

510 CEJIL, [Guatemala: Concerns over setbacks in transitional justice](#), December 6, 2024.

511 CEJIL, [Guatemala: Concerns over setbacks in transitional justice](#), December 6, 2024; Prensa Comunitaria, [First High Risk Court benefits General Benedicto Lucas García](#), November 13, 2024; Impunity Watch, [The trial of Benedicto Lucas for the genocide of the Ixil Maya people. Bulletin](#), November 2024; Plaza Pública, [After 99 hearings and 150 witnesses, an appeals court says another court must try Lucas García](#), December 2, 2024.

512 Center for Legal Action on Human Rights, Meeting with the IACtHR, July 23, 2024, on file with the IACtHR; Human Rights Law Firm, Report for on-site visit, August 12, 2024, on file with the IACtHR. Prensa Comunitaria, [Genocide victims request admission of evidence against former military operations chief](#), April 14, 2023.

hearing. Although this decision was reversed on appeal, it was later upheld by the Constitutional Court, limiting the evidentiary proceedings. Civil society organizations denounced Judge Roberto Molina Barreto as responsible, as he had participated in the annulment of the historic 2013 ruling that convicted José Efraín Ríos Montt for the genocide of the Ixil Maya.<sup>513</sup>

258. The Inter-American Court has already pointed out that the abusive use of the amparo remedy and the lack of due diligence in its processing, as well as the absence of judicial direction of the investigation and the process towards its proper development and conclusion in the face of the defendants' use of delaying tactics, have been structural obstacles in criminal proceedings related to transitional justice in Guatemala.<sup>514</sup> Sixty-five years after the start of the internal armed conflict in the country, the Commission warns that the excessive length of judicial proceedings is causing suffering to the victims. In this regard, it urges the State to adopt the necessary measures to prevent the passage of time from being a factor in impunity for the serious human rights violations and international crimes committed in that context.<sup>515</sup> This implies taking into account the aging of victims, their relatives, and witnesses in the proceedings and in the adoption of decisions, which must prioritize the guarantee of the right to truth.

259. Likewise, the Commission recalls that State agents, including all levels of the administration of justice, have the obligation to exercise, within the framework of their powers and the corresponding procedural regulations, control over the issuance and application of

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513 Center for Legal Action on Human Rights, Meeting with the IACtHR, July 23, 2024, on file with the IACtHR; Prensa Comunitaria, [Molina Barreto, the judge who overturned the genocide conviction, returns to the CC](#), November 13, 2020.

514 Inter-American Court of Human Rights, Case of Molina Theissen v. Guatemala, Request for Provisional Measures and Supervision of Compliance with the Judgment, Resolution of the Inter-American Court of Human Rights of September 4, 2023, para. 40.

515 IACtHR, [Press Release 46/2023 - IACtHR: States must consider the impact of the passage of time as an obstacle to victims' and relatives' access to justice and truth](#), March 24, 2023.

norms to ensure their conformity with the Convention.<sup>516</sup> To this end, the independence and impartiality of justice operators is a prerequisite, and it is essential that they not be subject to reprisals or criminal prosecution for complying with inter-American human rights decisions and standards.<sup>517</sup>

260. Finally, based on the information provided by the State, the IACtHR notes with concern that two draft bills with amnesty clauses for crimes committed during the internal armed conflict are still pending: Initiative 5920 of 2021, "Law on Peace Consolidation and Reconciliation"; and Bill 6099 of 2022, "Law on Strengthening Peace".<sup>518</sup> It also recalls that the Inter-American Court recommended that the State take the necessary actions to ensure that these initiatives are not adopted, are rendered ineffective, or are not given effect.<sup>519</sup>

## **B. Institutional Framework for Peace**

261. Since its last on-site visit in 2017, the IACtHR has observed the progressive dismantling of the institutional framework dedicated to transitional justice in Guatemala. In particular, during the administration of former President Giammattei, various entities created under the Peace Accords were dissolved, including the Secretariat for Peace (SEPAZ), the Presidential Dialogue

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516 Inter-American Court of Human Rights, [Case of Gelman v. Uruguay, Supervision of Compliance with Judgment](#), March 20, 2013, para. 69.

517 Inter-American Court of Human Rights, Case of Molina Theissen v. Guatemala, Request for Provisional Measures and Supervision of Compliance with the Judgment, Resolution of the Inter-American Court of Human Rights of September 4, 2023, para. 32.

518 State of Guatemala, Congress of the Republic, Annex 1, Official Letter-07-2025-WEJCC/ceo, January 30, 2025, Note Verbale OEA-M4-NV-026-2025, February 18, 2025; Congress of the Republic of Guatemala, [Details of Initiatives. 5920](#), April 2025; Congress of the Republic of Guatemala, [Details of Initiatives. 6099](#), April 2025; IACtHR, Annual Report 2023, Chapter IVB, 2024, para. 25; IACtHR, Annual Report 2021, Chapter IV.B, 2022, paras. 160 and 161.

519 Inter-American Court of Human Rights, Case of the Members of the Village of Chichupac and Neighboring Communities in the Municipality of Rabinal, Case of Molina Theissen et al. v. Guatemala, Provisional Measures and Supervision of Compliance with Judgments, Resolution of October 20, 2023, Resolving Points 1 and 2.

Commission (CPD), the Secretariat for Agrarian Affairs (SAA), and the Presidential Commission for Coordinating Executive Policy in the Field of Human Rights (COPREDEH), whose functions were assumed by the Presidential Commission for Peace and Human Rights (COPADEH).<sup>520</sup> For its part, the National Council for the Implementation of the Peace Agreements (CNAP) is practically inactive due to a lack of resources; while the mandate of the National Reparations Program (PNR) ended on December 31, 2023, after being paralyzed since 2020, leaving at least 50% of the 57,523 registered victim files unattended.<sup>521</sup>

262. During the on-site visit in 2024, the State acknowledged that the closure of these institutions weakened the capacity to respond to victims' demands and seriously affected the dialogue process, resulting in a crisis of confidence in democratic institutions. It also indicated that COPADEH, created with the aim of assuming the functions of the defunct entities, faces limitations derived from its legal mandate and temporary nature. In this regard, the State expressed the need to adopt an Organic Law that would allow for the creation of a stable institution, with ministerial or secretarial status, to ensure the continuity of functions related to peace and human rights.<sup>522</sup>
263. On the other hand, victims and civil society organizations informed the IACtHR about the establishment of a working group with

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<sup>520</sup> In 2021, the IACtHR expressed concern about the concentration of functions in COPADEH, without an adequate legal framework and the allocation of sufficient budgetary and human resources to fulfill its mandate. In fact, it noted that the budget initially established for the institution would be less than that allocated to the three entities it replaced as a whole, as well as the lack of outreach to victims. IACtHR, [Annual Report 2021. Chapter IV.B Guatemala](#), OEA/Ser.L/V/II. Doc. 64 rev. 1, May 26, 2022, para. 90.

<sup>521</sup> IACtHR, [Annual Report 2022. Chapter IV.B Guatemala](#), OEA/Ser.L/V/II. Doc. 50 rev. 1, April 1, 2023, para. 111; Annual Report 2021, Chapter IVB, para. 94; 2020 V, para. 64; Impunity Watch, [20 YEARS OF THE PNR Impact of the National Reparations Program for Victims of the Armed Conflict in Guatemala](#), December 2023; IACtHR, Notes from meeting with the Ministry of Social Development, July 23, 2024, on file with the IACtHR.

<sup>522</sup> State of Guatemala, Ref. DIDEH-DEPCADEH-21-2025/DADN/ac, Verbal Note OAS-M4-NV-052-2025, March 12, 2025.

COPADEH to advance the reactivation of the dismantled institutions and the development of a National Plan for Dignity and Reparation (PNDR).<sup>523</sup> In this context, they told the IACtHR that they feel "relegated and abandoned," especially those who live in the interior of the country, and therefore requested the immediate approval of the Plan and its budget. They also emphasized the need to specifically address the economic, social, and health vulnerability of women survivors, most of whom are elderly, who have not had access to comprehensive reparation measures after overcoming their fear and reporting the widespread sexual and gender-based violence perpetrated during the conflict.<sup>524</sup> In addition, they referred to the absence of a public policy on memory in Guatemala.<sup>525</sup>

264. For its part, the State informed the IACtHR of the progress made in the working groups and consultation meetings for the formulation of the PNDR, which have resulted in a basic consensus document that has been designed with a comprehensive approach and in line with the recommendations made by the Commission for Historical Clarification.<sup>526</sup> In this regard, the IACtHR reiterates that comprehensive reparation for victims and their families must be a priority for the State, and that the pillars of this public policy must have sufficient funding and an intersectional gender and ethnic-racial

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523 IACtHR, Meeting with Victims and Civil Society Organizations for Memory, Truth, and Justice, July 23, 2024, in the IACtHR archives; Prensa Latina, [Guatemala reaffirms its commitment to victims of armed conflict](#), February 25, 2024; Agencia de Noticias Guatama, [Copadeh seeks to consolidate itself as an open-door institution](#), February 24, 2024.

524 IACtHR, Meeting with Victims and Civil Society Organizations for Memory, Truth, and Justice, July 23, 2024, on file with the IACtHR; Andrea Bolaños Vargas, Olga Alicia Paz Bailey, [Study on the situation and opportunities for reparation for survivors of conflict-related sexual violence. They took everything from us except our dignity](#), September 2024.

525 National Platform of Organizations of Victims of the Armed Conflict, Meeting with the IACtHR, July 23, 2024.

526 State of Guatemala, Ref. DIDEH-DEPCADEH-21-2025/DADN/ac, Note Verbale OEA-M4-NV-052-2025, March 12, 2025.

approach.<sup>527</sup> Likewise, the IACtHR urges that the institutions involved in transitional justice be provided with an adequate legal framework and sufficient human and material resources to effectively fulfill their mandate, particularly with regard to COPADEH, in order to ensure its continuity and effectiveness.

265. The IACtHR recalls Guatemala's historic debt in relation to the nearly 45,000 victims who disappeared during the internal armed conflict.<sup>528</sup> Despite repeated calls to approve Bill 3590<sup>529</sup>, which proposes the creation of a National Commission for Victims of Enforced Disappearances and Other Forms of Disappearance, the bill has been stalled since 2016.<sup>530</sup> Consequently, the IACtHR echoes the message conveyed by the victims' relatives, who expressed their hope of finding out what happened to their loved ones, locating them, or recovering their remains in order to provide a dignified place for their memory.<sup>531</sup> In this regard, it urges the State of Guatemala to adopt the necessary measures for the development and implementation of a comprehensive public policy on enforced disappearance that prioritizes the search for disappeared persons

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<sup>527</sup> IACtHR, [Preliminary Observations, On-site Visit to Guatemala](#), OEA/Ser.L/V/II.doc.124/24, August 15, 2024.

<sup>528</sup> Commission for Historical Clarification, Guatemala: Memory of Silence. Volume V: Conclusions and Recommendations, 1999; ICRC, [Guatemala: The relatives of disappeared persons: a commitment for all](#), February 2010, p. 16.

<sup>529</sup> IACtHR, [Annual Report 2021. Chapter IV.B Guatemala](#), OEA/Ser.L/V/II. Doc. 64 rev. 1, May 26, 2022, paras. 57-59; IACtHR, Annual Report 2020, [Chapter V. Third Follow-up Report on the Recommendations Made by the IACtHR in the Report on the Situation of Human Rights in Guatemala](#), para. 59; IACtHR, Annual Report 2019, [Chapter V. Second Follow-up Report on Recommendations Made by the IACtHR in the Report on the Situation of Human Rights in Guatemala](#), para. 68; IACtHR, Annual Report 2018, [Chapter V. Follow-up Report on Recommendations Made by the IACtHR in the Report on the Situation of Human Rights in Guatemala](#), para. 39; IACtHR, [Situation of Human Rights in Guatemala](#), OEA/Ser.L/V/II. Doc. 208/17, December 31, 2017, para. 475.9

<sup>530</sup> Congress of the Republic of Guatemala, [Details of Initiatives. 3590](#), April 2025; International Center for Human Rights Research, Report submitted during the IACtHR's on-site visit, July 23, 2024.

<sup>531</sup> National Platform of Organizations of Victims of Armed Conflict, Meeting with the IACtHR, July 23, 2024.

and the investigation of the facts.<sup>532</sup> The Commission also notes that Guatemala has not ratified the International Convention for the Protection of All Persons from Enforced Disappearance, and therefore urges the State to move forward with this commitment.

266. Finally, in its preliminary observations on the visit, the IACtHR once again emphasized the value of the National Police Historical Archive for uncovering the truth, providing access to justice and reparation, and disseminating the memory of the armed conflict.<sup>533</sup> In this regard, it urged the State to guarantee the human and material resources necessary for its operation, as well as to digitize and classify the materials in its custody and ensure their accessibility to the population within a reasonable time frame.<sup>534</sup>
267. On this point, the Commission takes note of the administrative actions reported by the State to institutionalize and provide an organizational and functional structure to the Historical Archive of the National Police, in order to ensure its archival treatment, safekeeping, and preservation for user access.<sup>535</sup> As indicated, under the new designation of "Documentary Collection of the former National Police Archive," the archive is administered by the General Directorate of Cultural and Natural Heritage of the Ministry of Culture and Sports.<sup>536</sup> Likewise, in 2024, steps were taken to hire and train

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<sup>532</sup> IACtHR, [Press Release 224/2021 - International Day of the Victims of Enforced Disappearances: the IACtHR, the United Nations Committee on Enforced Disappearances, and the Working Group on Enforced or Involuntary Disappearances call on States to adopt and implement search and investigation strategies within the framework of a comprehensive policy on disappearances](#), August 30, 2021.

<sup>533</sup> IACtHR, [Preliminary Observations, On-site Visit to Guatemala](#), OEA/Ser.L/V/II/doc.124/24, August 15, 2024.

<sup>534</sup> IACtHR, [Preliminary Observations, On-site Visit to Guatemala](#), OEA/Ser.L/V/II/doc.124/24, August 15, 2024. Recommendations.

<sup>535</sup> State of Guatemala, Ref. DIDEH-DEPCADEH-21-2025/DADN/ac, Note Verbale OEA-M4-NV-052-2025, March 12, 2025.

<sup>536</sup> State of Guatemala, Ref. DIDEH-DEPCADEH-21-2025/DADN/ac, Note Verbale OAS-M4-NV-052-2025, March 12, 2025.

personnel, with the aim of expanding the technical and professional staff with the skills and qualities necessary for the proper archival treatment of conservation, intervention, preservation, and access.<sup>537</sup>

268. The State informed the IACHR of the obligation to provide spaces for research within the archives for nationals and foreigners, guided tours of the documentary collection, as well as advice to users and availability of information records; there is a space with equipment for consultation of the documentary collection.<sup>538</sup> Thus, in 2024, a total of 342 people were served, of whom 272 were men and 70 were women.<sup>539</sup> The IACHR values these initiatives and encourages their strengthening, taking into account the urgency of ensuring effective access to these archives for the processes of truth, justice, and memory in the country.

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<sup>537</sup> State of Guatemala, Ref. DIDEH-DEPCADEH-21-2025/DADN/ac, Verbal Note OEA-M4-NV-052-2025, March 12, 2025.

<sup>538</sup> State of Guatemala, Ref. DIDEH-DEPCADEH-21-2025/DADN/ac, Verbal Note OAS-M4-NV-052-2025, March 12, 2025.

<sup>539</sup> State of Guatemala, Ref. DIDEH-DEPCADEH-21-2025/DADN/ac, Verbal Note OEA-M4-NV-052-2025, March 12, 2025.

# **ECONOMIC, SOCIAL, CULTURAL, AND ENVIRONMENTAL RIGHTS**

## **ECONOMIC, SOCIAL, CULTURAL, AND ENVIRONMENTAL RIGHTS**

269. Guatemala faces significant challenges in combating poverty and inequality and in guaranteeing economic, social, cultural, and environmental rights (DESCA). As discussed in this chapter, the IACtHR observes structural and historical challenges in this area, including poverty, inequality, discrimination, impunity, and insecurity, as well as the lack of adequate living conditions for the majority of the population, particularly for groups that have historically been excluded, especially indigenous peoples, Afro-descendant communities, and rural communities.<sup>540</sup> In this context, the levels of inequality and poverty in the country represent a direct threat to the protection of human rights, especially with regard to DESCa.<sup>541</sup>

### **A. Inequality, poverty, and exclusion**

270. High levels of poverty and inequality, structural discrimination, and corruption limit access to fundamental rights.<sup>542</sup> In Guatemala, this situation occurs in a context of the preponderance of private interests in social and agrarian conflicts, as well as difficulties in implementing fiscal policies due to the weakening of democratic institutions in the country. As a result, access to essential rights such as water and sanitation, health, education, food, work, social security, and the right to a healthy environment is also restricted.

271. According to World Bank data, Guatemala is the largest economy in Central America in terms of population (estimated at 17.6 million in

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<sup>540</sup> While 63.2% of households suffer from multidimensional deprivation, this percentage rises to 86.1% for the Xinka people and 82.3% for the Maya people. See [Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Guatemala](#), Human Rights Council, 55th session, February 26 to April 5, 2024, paragraph 18.

<sup>541</sup> IACtHR, [Preliminary Observations, on-site visit to Guatemala](#), July 22 to 26, 2024.

<sup>542</sup> On the impact of corruption on human rights and the factors that contribute to this phenomenon, see IACtHR, [Corruption and Human Rights: Inter-American Standards](#), OAS/Ser.L/VII. Doc. 236, December 6, 2019, paras. 115-119.

2023) and economic activity, with a gross domestic product (GDP) of US\$104.4 billion in 2023, even recording stable economic growth above the average for Latin American and Caribbean (LAC) countries.<sup>543</sup> According to the World Bank, this figure (3.2% on average during 2014-2023) is among the highest in the region.<sup>544</sup> However, this growth has not translated into a reduction in poverty and malnutrition rates. The country continues to face systemic and structural challenges in terms of inequality and discrimination, and in the promotion and protection of economic, social, cultural, and environmental rights.

272. Despite public policy efforts, Guatemala continues to be one of the countries with the highest incidence of poverty in Latin America and the Caribbean and in relation to countries with a similar level of *per capita* income.<sup>545</sup> Poverty continues to affect a large number of people, especially in rural and dispersed areas. According to the National Survey of Living Conditions (ENCOVI) conducted in 2023, 56% of the population lives in monetary poverty, of which 16.2% lives in extreme poverty.<sup>546</sup> In other words, more than half of the population had an annual consumption below the poverty line. It is particularly worrying that, in 2023, the poverty severity rate reached 12.6%, the highest recorded since 2000.<sup>547</sup> According to the latest data from the Multidimensional Poverty Index, the situation in Guatemala is alarming, with 61.6% of the population living in multidimensional poverty.<sup>548</sup> This means that at least six out of ten

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<sup>543</sup> World Bank, Guatemala, [Fact sheet](#), Updated March 5, 2025.

<sup>544</sup> World Bank, Guatemala, [Fact sheet](#), cited above, updated March 5, 2025.

<sup>545</sup> UN Women, Guatemala, updated March 8, 2025.

<sup>546</sup> National Institute of Statistics (INE), [National Survey of Living Conditions \(ENCOVI\) 2023: Main findings on poverty and inequality](#), August 2024.

<sup>547</sup> National Institute of Statistics (INE), [National Survey of Living Conditions \(ENCOVI\) 2023: Main findings on poverty and inequality](#), cited above, August 2024, p. 40.

<sup>548</sup> National Institute of Statistics (INE), [National Survey of Living Conditions \(ENCOVI\) 2023: Main findings on poverty and inequality](#), already cited, August 2024.

people experience deprivation in at least 30% of the weighted indicators that make up the IPM-GT.<sup>549</sup> In Guatemala, poverty as a multidimensional phenomenon is determined by structural and intersectional factors, such as gender, geographic location, life cycle, educational level, household composition, labor market participation, and employment conditions.<sup>550</sup>

273. In light of these circumstances, the Commission expresses its concern about the high levels of poverty that disproportionately affect women<sup>551</sup>, as well as persistent economic and social inequality, exclusion, and lack of access to land and productive resources.<sup>552</sup> Furthermore, the data reveal a downward trend in the incidence of extreme poverty with increasing age, suggesting greater vulnerability among young people.<sup>553</sup> In this regard, the 0-19 age group has the highest proportion of individuals living below the national monetary poverty line, reaching 64%.<sup>554</sup> Likewise, the highest proportion of extreme poverty is recorded in the under-20 age group, at 20.4%, in contrast to 8.5% among people aged 60 and over. However, there are significant discrepancies between territories; according to estimates for 2023, the highest incidence of poverty continued to be observed in

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<sup>549</sup> National Institute of Statistics (INE), [Multidimensional Poverty Index - MPI - Case of Guatemala](#), cited above, September 2024.

<sup>550</sup> Central American Institute for Fiscal Studies (ICEFI), [Women of Guatemala. An analysis of their economic and social conditions](#), September 2021.

<sup>551</sup> CEDAW/C/GTM/CO/8-9, para. 38. See also CEDAW/C/GTM/CO/8-9, para. 8, and United Nations, country team submission, p. 2.

<sup>552</sup> CEDAW/C/GTM/CO/8-9, para. 8. See also United Nations country team submission, p. 2, and Human Rights Council, [Situation of human rights in Guatemala. Report of the United Nations High Commissioner for Human Rights](#), A/HRC/49/20, March 22, 2022, para. 21.

<sup>553</sup> National Institute of Statistics (INE), [National Survey of Living Conditions \(ENCOVI\): Main Findings on Poverty and Inequality](#), op. cit., August 2024, p. 56.

<sup>554</sup> National Institute of Statistics (INE), [National Survey of Living Conditions \(ENCOVI\): Main findings on poverty and inequality](#), op. cit., August 2024, p. 30.

rural areas.<sup>555</sup> The departments of Alta Verapaz, Quiché, Huehuetenango, and Baja Verapaz show poverty rates above 80%, while the departments with the lowest poverty levels were Escuintla, Sacatepéquez, and Guatemala, with less than 40%.<sup>556</sup>

274. Inequality in income distribution continues to be one of the main challenges for Guatemala.<sup>557</sup> The country continues to have one of the most unequal societies in terms of income distribution in Latin America, with a Gini coefficient of 0.48, which implies extremely high income inequality according to the World Bank's categorization.<sup>558</sup> Likewise, the high levels of poverty and inequality mentioned above have also contributed to an increase in hunger and food insecurity. Addressing these challenges requires the establishment of more progressive mechanisms for the generation and distribution of different sources of income.<sup>559</sup>

## **B. Right to food**

275. The prevalence of food insecurity in the country remains another critical issue, with 45.9% of households experiencing mild insecurity, 19.5% moderate insecurity, and 14.6% severe insecurity.<sup>560</sup> According to the food security index, more than half of Guatemalan households (58%) are in a situation of marginal food security, which

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<sup>555</sup> National Institute of Statistics (INE), [National Survey of Living Conditions \(ENCOVI\): Main findings on poverty and inequality](#), cited above, August 2024, p. 31.

<sup>556</sup> National Institute of Statistics (INE), [National Survey of Living Conditions \(ENCOVI\)](#), August 2024, p. 30.

<sup>557</sup> REDESCA, [VII Annual Report of the Special Rapporteur on DESCA of the IACtHR](#), OEASER.L/V/III Doc. 386, December 29, 2023, para. 386.

<sup>558</sup> World Bank, [Gini Index - Guatemala](#), February 2025; World Bank, [The Complexities of Inequality in Latin America and the Caribbean](#), March 6, 2024.

<sup>559</sup> Economic Commission for Latin America and the Caribbean (ECLAC), [Social Inequality in Guatemala: Evolution and Institutional Response](#), 2022, p. 20.

<sup>560</sup> National Institute of Statistics (INE), [National Survey of Living Conditions \(ENCOVI\): Main Results on Poverty and Inequality](#), op. cit., August 2024.

means that they have a slightly inadequate food intake and use stress coping strategies to ensure their food needs are met. In this regard, only 16% of Guatemalan households are food secure, meaning that they are able to meet their food needs without resorting to any coping strategies.<sup>561</sup> This situation has had a differentiated and disproportionate impact on children. The country has a prevalence of chronic child malnutrition of 46.5%, which is the highest prevalence in Latin America and sixth highest worldwide; this means that 5 out of 10 children under the age of 5 are not developing adequately for their age.<sup>562</sup>

276. The situation is even more serious given the projected deterioration in food security, exacerbated by rising prices.<sup>563</sup> External factors such as the climate emergency and land conflicts are exacerbating this situation, especially for communities that depend on agricultural production. According to information received by the IACHR, rural agricultural production areas are located in areas prone to droughts and floods, resulting in crop losses and thus hindering physical and economic access to food. It is urgent to adopt effective, sustained, and differentiated measures to guarantee the right to adequate food, in order to address the poverty and structural inequalities that underlie the high rates of chronic child malnutrition and mortality. The IACHR urges the State to consider these differentiated approaches to reduce existing social gaps with a view to guaranteeing the rights of the most vulnerable populations.
277. In Guatemala, the Human Capital Index score (0.46 in 2020) remains below the average for Latin American and Caribbean countries.<sup>564</sup> State authorities have warned that droughts and floods,

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<sup>561</sup> WFP, [National Food Security Assessment for Guatemala - Technical Report](#), August 2023.

<sup>562</sup> World Bank, [Guatemala Overview](#), updated September 24, 2024; WFP, [National Food Security Assessment for Guatemala - Technical Report](#), August 2023.

<sup>563</sup> Integrated Food Security Phase Classification, [Analysis of Acute Food Insecurity by the IFSP June 2024–May 2025](#), August 2024.

<sup>564</sup> World Bank, Guatemala, [Fact sheet](#). Already cited, updated March 5, 2025.

linked to the effects of El Niño and exacerbated by climate change, could further exacerbate malnutrition in the country.<sup>565</sup> In response to this situation, programs promoted by the Secretariat for Food and Nutritional Security (SESAN) of the Presidency of the Republic stand out as part of the progress made in improving the institutional response to acute malnutrition and expanding food assistance to a greater number of families. It has been reported that collaboration between SESAN and local governments, through the Municipal Food and Nutritional Security Commissions (COMUSAN), has made it possible to manage food assistance in 209 municipalities in 2024, exceeding the figure achieved in 2023 by 83%.<sup>566</sup>

278. The IACtHR took note of the various actions envisaged in the 2024-2028 General Government Policy, aimed at combating poverty and mitigating inequality. According to information provided by the State, the Ministry of Social Development has launched various social programs and actions aimed at strengthening the guarantee and protection of DESCA, particularly in the context of guaranteeing the right to health, food, water, education, and work, with a territorial, intercultural, gender, and equality and non-discrimination approach.<sup>567</sup>
279. As a result of the measures implemented in the context of social development, protection, assistance, and social security, as well as in the fight against undernutrition and malnutrition, the following programs, among others, have been promoted: the "VIDA" Social Program for assistance through conditional cash transfers to abused girls and adolescents whose cases have been brought to court, Social Canteens, Social Grant Program, Fortified Supplementary Foods, "Nutrition Grant" Intervention, Social Grant Program,

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<sup>565</sup> Amnesty International, [The State of Human Rights in the World 2023/2024](#), April 23, 2024.

<sup>566</sup> Secretariat for Food and Nutritional Security of the Presidency of the Republic, [SESAN strengthens territorial actions to address acute malnutrition](#), January 14, 2025.

<sup>567</sup> Government of the Republic of Guatemala, Response of the State of Guatemala to the request for additional information regarding the on-site visit of the Inter-American Commission on Human Rights to Guatemala in July 2024, Note Verbale OEA-M4-NV-052-2025, March 10, 2025, Ref. DIDEH-DEPCADEH-21-2025/DADN/ac.

Temporary "One-Time Grant" Intervention, Secondary Education Scholarship and Higher Education Scholarship, Artisan Scholarship Intervention, Social Development Fund (FODES), Decent Housing Program, Community Food Program, and Developing Communities Program. These actions include food distribution with a special emphasis on children, conditional cash transfers, care for children with acute malnutrition, and care for families identified as lacking access to electricity.

280. The Commission has also taken note of the intersectoral initiative "*Mano a Mano*" (*Hand in Hand*) within the framework of the Guatemalan Government's General Policy 2024-2028, which recognizes the urgency of addressing poverty and malnutrition.<sup>568</sup> With a territorial and transparency approach, the initiative aims to address these issues in a comprehensive and multidimensional manner, focusing on the most historically neglected sectors. In this context, nine state institutions have formed a strategic alliance to intervene in a coordinated and targeted manner, acting comprehensively on the determinants of poverty and malnutrition. The agreement signed between the Guatemalan Ministry of Social Development and the United Nations Development Program (UNDP) to support the strengthening and improvement of living conditions in priority households, as part of the intersectoral initiative "*Mano a Mano*".<sup>569</sup>
281. In turn, information was received from the State on Guatemala's Comprehensive Early Childhood Development Policy 2024-2044, approved by Government Agreement 61-2024, which is coordinated

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<sup>568</sup> Secretariat of Food and Nutritional Security of the Presidency of the Republic, [Mano a Mano: Intersectoral Initiative of the Government of Guatemala to Combat Poverty and Malnutrition](#), April 30, 2024.

<sup>569</sup> United Nations Development Program (UNDP), [MIDES and UNDP sign agreement to strengthen the "Mano a Mano" initiative](#), September 12, 2024.

by the Ministry of Public Health and Social Assistance (MSPAS).<sup>570</sup> This policy is an instrument that will guide the State's actions aimed at early childhood, in accordance with the national and international regulatory framework on human rights, with the aim of promoting the comprehensive development of early childhood. Taking into account the National Development Plan: Katún, nuestra Guatemala 2032, and the 2030 Sustainable Development Goals, the Policy contemplates actions to ensure citizen participation in the promotion of children's rights, actively involving families and caregivers in the child development process. It also addresses the collaboration of non-governmental organizations, civil society, and local authorities.

282. The IACtHR warns that the right to food is affected by structural inequality and the effects of the climate emergency. Despite the State's ongoing actions to address this situation, it emphasizes the reinforced responsibility of States to protect the rights of individuals or groups in situations of vulnerability, especially those who have historically borne the greatest burden of structural inequality and the adverse impacts of climate change.<sup>571</sup>

### **C. Right to housing and access to basic services**

283. The IACtHR continues to monitor the barriers faced by families in poverty in accessing adequate housing, due to their inability to cover rental costs or purchase property. This situation results in many families being forced to live in precarious conditions, in overcrowded housing or in homes that lack basic services such as drinking water, sanitation, and electricity. At the national level, 32.6% of the population lives in homes with access to basic sanitation services. This proportion varies significantly between areas: in urban areas,

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<sup>570</sup> Government of the Republic of Guatemala, Response of the State of Guatemala to the request for additional information regarding the on-site visit of the Inter-American Commission on Human Rights to Guatemala in July 2024, Note Verbale OEA-M4-NV-052-2025, March 10, 2025, Ref. DIDEH-DEPCADEH-21-2025DADN/ac.

<sup>571</sup> IACtHR-REDESCA. [Resolution 3/2021](#). Climate Emergency: Scope of Inter-American Obligations in the Area of Human Rights, December 31, 2021, para. 16.

55.9% of the population has access, while in rural areas, only 7% has these services (basic services include water, sanitation, electricity, and garbage collection).<sup>572</sup>

284. On the other hand, households' access to services such as water, electricity, and sewage systems varies according to their poverty status. Among them, there is a low coverage of sewage systems, with 14.1% and 39% in extremely poor and non-extremely poor households, respectively.<sup>573</sup> In contrast, non-poor households have greater access to basic services. 84.7% and 94.4% of these households live in homes connected to a water and electricity distribution network, respectively. Nationwide, the proportion of households with access to improved drinking water sources is 75.7%.<sup>574</sup> When broken down by area of residence, there is greater access to improved water in urban areas, where 85% of the population has better sources of supply. In contrast, in rural areas, 63.3% of the population has access to these sources.<sup>575</sup>

285. With regard to the treatment of wastewater generated in households, information has been received indicating a lack of adequate treatment in several municipalities in the country, which means that this water is discharged directly into river basins, thus compromising access to water of adequate quality and quantity and the right to a healthy environment. This is a determining factor in the contamination of water sources and coastlines, compromising the well-being of communities. Given the limitations observed in access to drinking water and sanitation, the IACtHR calls for intensified

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<sup>572</sup> National Institute of Statistics (INE), [National Survey of Living Conditions \(ENCOVI\): Main Findings on Poverty and Inequality](#), supra, August 2024.

<sup>573</sup> National Institute of Statistics (INE), [National Survey of Living Conditions \(ENCOVI\): Main findings on poverty and inequality](#), cited above, 2024, p. 42.

<sup>574</sup> National Institute of Statistics (INE), [National Survey of Living Conditions \(ENCOVI\): Main findings on poverty and inequality](#), cited above, 2024, p. 42.

<sup>575</sup> National Institute of Statistics (INE), [National Survey of Living Conditions \(ENCOVI\): Main findings on poverty and inequality](#), op. cit., 2024, p. 42.

efforts to guarantee universal access to drinking water and adequate sanitation services for the entire population, with special attention to precarious settlements in urban areas and rural communities. It is essential to allocate the resources necessary for the adequate provision of these services, ensuring their sustainability and equitable access. Lack of access to drinking water and essential public services, such as sanitation, exacerbates living conditions in precarious and polluted environments.

#### **D. Informality and precariousness: the role of fiscal policies and business activities**

286. Challenges related to the protection of labor and union rights, high informality, and precariousness persist in the country. In 2024, approximately 71.1% of the country's working population was employed in the informal sector. Furthermore, it is estimated that the informal economy in Guatemala represents about 49% of GDP.<sup>576</sup> The IACHR expresses its concern about the figures related to the working child population, which reveal that 17.8% of the population aged 10 to 14 (almost 350,000 children) are working in Guatemala, with rural areas accounting for the highest proportion of the working child population.<sup>577</sup> It has been observed that the high school dropout rate in Guatemala could be due to the low minimum working age, which, under Guatemalan law, is 14 years old.<sup>578</sup>
287. The IACHR considers it essential that the country increase budget allocations to guarantee DESCA. In these circumstances, it is important to note that the proportion of resources that the State of Guatemala allocated to financing social programs in 2023 (7.9% of

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<sup>576</sup> World Bank, [Guatemala Overview](#), August 22, 2024.

<sup>577</sup> Diario de Centro América, [Child Labor in Guatemala: A Call to Action](#), June 13, 2024.

<sup>578</sup> Diario de Centro América, [Child Labor in Guatemala: A Call to Action](#), June 13, 2024.

gross domestic product) remained below the Central American average (9.3%).<sup>579</sup>

288. Fiscal policies are a necessary tool for combating poverty and inequality. This is because they are essential for mobilizing resources to guarantee human rights and reduce economic, social, and gender inequalities. Poverty and extreme poverty cannot be addressed and eradicated without a broad framework of redistributive policies that reduce the extreme levels of socioeconomic inequality that characterize the region. In this regard, from a human rights perspective, fiscal policy must incorporate the following principles and obligations: ensuring minimum essential levels; mobilizing the maximum available resources for the progressive realization of DESCA rights; progressive realization and non-regression of these rights; and the principle of equality and non-discrimination.<sup>580</sup>
289. It is alarming that fiscal policies and the regulation of certain business activities are not proving effective in breaking this cycle of poverty and inequality. Although the positive potential of businesses to create wealth, employment, and well-being in society is recognized<sup>581</sup>, situations have been identified that require strict compliance with international and inter-American standards in the area of business and human rights in order to achieve this goal. In view of the above, the IACHR welcomes the progress made by COPADEH in developing the baseline for the National Plan of Action on Business and Human Rights.<sup>582</sup> It also notes that COPADEH, together with the Office of the United Nations High Commissioner for Human Rights, has developed training processes in Guatemala City

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<sup>579</sup> IACHR, [Poverty, Climate Change, and DESCA in Central America and Mexico, in the Context of Human Mobility](#), July 28, 2023, p. 11.

<sup>580</sup> IACHR, [Report on Poverty and Human Rights in the Americas](#), September 7, 2017, p. 171.

<sup>581</sup> REDESCA-IACHR. [Report on Business and Human Rights: Inter-American Standards](#), OEA/332 Ser.L/VII CIDH/REDESCA/INF.1/19, November 1, 2019, para. 2.

<sup>582</sup> Human Rights Council, [Situation of Human Rights in Guatemala 2023. Report of the United Nations High Commissioner for Human Rights](#), AHRC/55/21, February 6, 2024, para. 54.

and in the departments of Alta Verapaz and Izabal for public institutions on international human rights standards, including training on standards relating to business and human rights.<sup>583</sup>

290. Finally, the Commission observes that the indigenous population represents the most vulnerable and socially excluded sector of the total population living in poverty. In this regard, racial discrimination and systemic racism continue to impact the enjoyment of human rights by indigenous, Garifuna, and Afro-descendant peoples.
291. As discussed below, the IACtHR identifies that one of the underlying causes affecting indigenous peoples in Guatemala is the lack of protection of their rights to their ancestral lands, territories, and natural resources. In particular, information has been received about the absence of an adequate land registry and the dispossession of indigenous communities' territories. The country faces significant inequality in land distribution, which has been exacerbated by new processes of land grabbing and concentration of land ownership that have occurred to a greater or lesser extent in the country. The stark inequality in land tenure in Guatemala is the result of a history of dispossession and exploitation of indigenous peoples. According to figures from the Food and Agriculture Organization of the United Nations, in Guatemala, 92% of small producers occupy 22% of the country's land, while 2% of commercial producers use 57% of Guatemala's land.<sup>584</sup> This widespread inequality and insecurity in land tenure and natural resources further exacerbates the situation of inequality and poverty in the country.
292. In this context, the IACtHR received information on the violation of human rights and the right to a healthy environment, as well as the eviction and displacement of ethnic and peasant communities in the context of extractive activities and monoculture farming. It also

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<sup>583</sup> Human Rights Council, [Situation of human rights in Guatemala 2023. Report of the United Nations High Commissioner for Human Rights](#), A/HRC/55/21, February 6, 2024, para. 50.

<sup>584</sup> FAO, [Latin America and the Caribbean is the region with the greatest inequality in land distribution](#), April 5, 2017.

received information on the stigmatization and criminalization of rural communities, indigenous peoples, and defenders of the land and the environment. The Commission notes the asymmetry of power between these communities and private actors in judicial proceedings and investigations, as well as the lack of institutional capacity for effective and independent resolution of agrarian, social, and environmental conflicts.

293. Similarly, during its visit, the IACHR received information about the increase in evictions and threats of eviction, as well as the criminalization and imprisonment of community leaders, among other violations. It also received information about the expulsion of indigenous communities from their ancestral territories, a situation that occurs mainly in departments where large tracts of land are used for export monoculture. These regions have high rates of poverty and extreme poverty, which are linked to lack of access to land. The IACHR observed how entire communities are deprived of their DESCA, subjected to situations of extreme poverty, and forced to relocate.<sup>585</sup> This has a differentiated and disproportionate impact on children and adolescents, women, older persons, and persons with disabilities. In the context of guaranteeing DESCA rights for communities affected by evictions or at risk of eviction, information has been received about the Social Development Fund (FODES), which has reportedly implemented measures to guarantee humanitarian assistance for the well-being of evicted families, improving their food conditions and access to drinking water.<sup>586</sup>

## **E. Climate emergency and environmental protection**

294. Several studies have warned of the serious impacts of the climate emergency in Guatemala, placing the country among the ten most

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<sup>585</sup> IACHR, [Preliminary observations: on-site visit to Guatemala](#), July 22-26, 2024.

<sup>586</sup> Government of the Republic of Guatemala, Response of the State of Guatemala to the request for additional information regarding the on-site visit of the Inter-American Commission on Human Rights to Guatemala in July 2024, Note Verbale OEA-M4-NV-052-2025, March 10, 2025, Ref. DIDEH-DEPCADEH-21-2025/DADN/ac.

vulnerable to disasters and extreme weather events.<sup>587</sup> In particular, over the last three years, prolonged dry seasons have affected subsistence farmers, especially in the Dry Corridor, which experienced extreme drought levels in 2023. The most affected regions have been Petén, Escuintla, Suchitepéquez, Retalhuleu, as well as parts of San Marcos, Quetzaltenango, Sololá, and Chimaltenango.<sup>588</sup> This strip of territory covers 36% of the country's departments, affecting almost 360,000 hectares due to the lack of rainfall caused by the El Niño phenomenon, which has led to an irregular rainy season, with localized flooding and cold fronts in some regions.<sup>589</sup> In addition to impacting human rights, this crisis also raises concerns about biodiversity loss and the risk to various species. The IACtHR has observed how drought levels have impacted the Guatemalan energy market, leading the Ministry of Energy and Mines to declare a state of emergency in the National Interconnected System in March 2024, as reduced rainfall has affected hydroelectric power plants.<sup>590</sup>

295. In this same context, agricultural losses and droughts have exacerbated food insecurity, as well as the economic difficulties and vulnerability of communities that depend on agriculture for their subsistence.<sup>591</sup> At the same time as the frequency and severity of droughts are increasing, there is a greater prevalence of forest fires

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<sup>587</sup> UNICEF, [Climate Change in Guatemala: Effects and Consequences on Children and Adolescents](#), 2012.

<sup>588</sup> World Food Programme, [El Niño Phenomenon 2023–2024: Latin America and the Caribbean](#), 2024; World Food Programme (WFP), [Guatemala](#), 2024.

<sup>589</sup> World Food Programme, [El Niño Phenomenon 2023–2024: Latin America and the Caribbean](#), 2024, p. 6.

<sup>590</sup> Ministry of Energy and Mines, [Ministerial Agreement 75-2024](#), March 18, 2024; Ministry of Energy and Mines, [MEM extends agreement declaring a state of emergency in the National Interconnected System](#), May 30, 2024.

<sup>591</sup> Human Rights Watch (HRW), [Desperate Decisions in Guatemala: Drought and Storms Intensify Hardships Driving People to Risk Everything to Reach the United States](#), 2023.

and critical weather events for the most vulnerable populations.<sup>592</sup> Through its REDESCA, the IACHR has pointed out that the persistent proliferation of forest fires, driven by extreme drought conditions, intense winds, and environmental degradation such as deforestation and desertification, is a clear manifestation of the combined effects of climate change and land use transformation.<sup>593</sup> In Guatemala, the 2023-2024 fire season saw a 173% increase over the previous season in terms of fires responded to.<sup>594</sup>

296. The climate crisis is also exacerbating the availability of drinking water in Guatemala. Prolonged droughts and intense rains are becoming more regular, affecting water availability and quality, with rural communities and precarious urban settlements being the most vulnerable. The Commission has identified institutional weaknesses and significant limitations in guaranteeing the right to a healthy environment and access to drinking water in the country. This situation represents a challenge that requires priority attention, especially for vulnerable groups such as indigenous peoples, peasant communities, and Afro-descendants. Institutional weaknesses in guaranteeing the right to a healthy environment and access to drinking water are evident in the contamination of more than 90% of the country's water sources.<sup>595</sup>
297. During its visit, the IACHR learned that Guatemala is developing the *Roadmap for the Construction of the Water Law "Unidos por el Agua" (United for Water)*, which includes the promotion of a bill

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<sup>592</sup> Prensa Libre, [Guatemala's climate records a maximum temperature of 44 degrees so far in 2024](#), April 2024.

<sup>593</sup> REDESCA-CIDH, [REDESCA urges urgent action in response to the environmental crisis in South America caused by forest fires](#), September 17, 2024.

<sup>594</sup> National Council for Protected Areas (CONAP), [Report: Forest and Non-Forest Fire Season 2023-2024](#), November 19, 2024; Executive Secretariat of the National Coordinator for Disaster Reduction (SE-CONRED), [Report on the 2023–2024 Forest and Non-Forest Fire Season](#), 2024.

<sup>595</sup> Vice Presidency of the Government of the Republic of Guatemala, [Guatemala begins the process of passing a Water Law with the slogan "United for Water,"](#) August 29, 2024.

before the Congress of the Republic in 2025.<sup>596</sup> This initiative represents a key opportunity to move toward comprehensive regulation of water resources, in line with the State's international human rights obligations, particularly the human right to water and sanitation, as established in General Comment No. 15 of the United Nations Committee on Economic, Social and Cultural Rights. However, civil society organizations have expressed concern about a possible paralysis in the process of drafting the bill, as well as about the need to guarantee effective mechanisms for broad, informed, and culturally appropriate public participation. In this regard, the IACHR recalls that the active, free, and meaningful participation of the population, especially indigenous peoples and affected rural communities, is an essential component of a human rights-based approach to public policy formulation.

298. The IACHR reiterates the importance of having a Water Law that recognizes and guarantees water resources as a common good, managed in an equitable, sustainable, and participatory manner, from a comprehensive human rights perspective. This implies ensuring sufficient, safe, acceptable, physically accessible, and affordable access to water for personal and domestic use. It is also essential that such legislation incorporate measures to adapt to climate change in water management, including the protection and restoration of watersheds, the reforestation of key areas, the development of infrastructure that is resilient to extreme events, and the promotion of agroecological production systems that respect water cycles, preserve ecosystems, and protect the health of communities. The implementation of these measures must take into account the principles of environmental sustainability, climate justice, intergenerational equity, and the effective participation of vulnerable groups, especially indigenous peoples and peasant communities.
299. During its visit, the IACHR observed the environmental problems caused by the pollution of the Motagua River, Guatemala's largest

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<sup>596</sup> Ministry of Environment and Natural Resources, [The Government of Guatemala presents the Roadmap for the Construction of the Water Law "United for Water."](#) September 20, 2024.

river basin, which is 486 kilometers long and crosses 96 municipalities and 14 departments, flowing into the Caribbean Sea at the Mesoamerican Reef. Along the river basin there are 10 life zones, out of the 14 that have been identified for Guatemala, such as subtropical rainforests, rainforests, dry forests, and thorny forests, among others. In addition, there are seven biomes in terms of flora and fauna. Approximately 27% of the country's total population lives in the river basin, which means that several human groups depend on it. The Motagua River sustains rural and urban livelihoods, as well as economic production, and conditions the life, health, development, and security of more than 5 million inhabitants (including the population in Guatemalan territory and in the Republic of Honduras). The pollution of the Motagua River has four main causes, many of which converge and are interrelated. The main causes are: wastewater, use of agrochemicals, deforestation, and solid waste. This is due to the absence of a water law, lack of regulation and control of business activities, as well as the ineffectiveness of the Regulations on Wastewater Discharge and Reuse and Sludge Disposal.<sup>597</sup> As a recipient of wastewater, among other pollutants that degrade its physical, chemical, and biological characteristics, the river becomes a source of environmental, social, and cultural impacts that limit and impede the enjoyment of fundamental human rights by the people and communities that depend on it.

300. Pollution from solid waste, particularly plastics, is a growing threat to human rights and the environment. This waste contributes to greenhouse gas emissions—especially methane and ethylene—during its production, degradation, and final disposal, exacerbating the climate crisis. In addition, the accumulation of plastic waste creates conditions conducive to the proliferation of disease vectors, affecting public health, and has severe impacts on terrestrial and aquatic

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<sup>597</sup> On May 30, 2024, the Constitutional Court provisionally suspended Articles 2, 3, 4, and 24 bis of Government Agreement 236-2006, rendering the Regulations on Wastewater Discharge and Reuse and Sludge Disposal inoperative; these regulations being the only environmental standard regulating wastewater discharge in the country.

ecosystems.<sup>598</sup> In Guatemala, the case of the Motagua River is particularly alarming. Recent research estimates that this river contributes approximately 2% of the total plastic that enters the oceans annually, with around 20,000 tons dumped into the Caribbean Sea each year.<sup>599</sup> This situation makes the Motagua one of the most polluting rivers in the world in terms of marine plastic dumping.<sup>600</sup>

301. The IACHR visited the Chinautla River in the municipality of Santa Cruz, department of Guatemala, which is part of the Motagua River basin. There, it observed the serious problem of pollution and its profound impacts on biodiversity, the environment, and the human rights of the communities that depend on it, including the Poqomam Maya people.<sup>601</sup> The rivers that flow through Santa Cruz Chinautla have become contaminated conduits of waste and debris that flow into the Motagua River. The waste has become a pollutant because it is discharged into the drainage system without passing through a treatment plant.<sup>602</sup> These discharges increase the amount of organic and inorganic substances that affect the composition of the water and the sewerage system itself.<sup>603</sup> Meanwhile, in Livingston, Garifuna

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<sup>598</sup> CNN, [The mission to clean up one of Central America's most polluted rivers](#), August 19, 2024. The Ocean Cleanup, [The Ocean Cleanup Trials New Interceptor in World's Most Polluting River](#), October 26, 2021. Le Monde, [Floating from Guatemala to Honduras, the Motagua River carries thousands of tonnes of plastic](#), August 15, 2023.

<sup>599</sup> Interamerican Association for Environmental Defense (AIDA), Report submitted to REDESCA in the context of the on-site visit to Guatemala, on July 24, 2024, on file with the IACHR; CNN, [The mission to clean up one of Central America's most polluted rivers](#), August 19, 2024.

<sup>600</sup> CNN, [The mission to clean up one of Central America's most polluted rivers](#), August 19, 2024. The Ocean Cleanup, [The Ocean Cleanup Trials New Interceptor in World's Most Polluting River](#), October 26, 2021. Le Monde, [Floating from Guatemala to Honduras, the Motagua River carries thousands of tonnes of plastic](#), August 15, 2023.

<sup>601</sup> IACHR, [Preliminary Observations on the On-Site Visit to Guatemala](#), OEA/Ser.L/V/II. Doc. 124/24, approved on August 15, 2024, para. 45.

<sup>602</sup> Interamerican Association for Environmental Defense (AIDA), Report submitted to REDESCA in the context of the on-site visit to Guatemala, on July 24, 2024, on file with the IACHR.

<sup>603</sup> Interamerican Association for Environmental Defense (AIDA), Report submitted to REDESCA in the context of the on-site visit to Guatemala, on July 24, 2024, on file with the IACHR.

organizations denounced the impact of the Motagua River's pollution on the health of the population and emphasized that the river carries solid waste that accumulates at its mouth in Puerto Barrios, causing the spread of diseases such as dengue fever.<sup>604</sup> In April 2024, the MSPAS issued Ministerial Agreement No. 152-2024, declaring a National Health Emergency throughout the country due to the dengue epidemic, transmitted by the *Aedes aegypti* mosquito.<sup>605</sup>

302. The IACtHR emphasizes the importance of ensuring recognition and protection of the collective, cultural, and spiritual dimensions of the human right to water of indigenous and tribal peoples, in accordance with the standards of the inter-American system.<sup>606</sup> This right is intrinsically linked to their ancestral territories and the autonomous management of their natural resources, which are fundamental to their physical and cultural survival. It also emphasizes the need to adopt a differential approach that addresses the specific local and regional contexts faced by these populations, with special attention to tribal communities of African descent settled in rural, riverine, and island areas. In many cases, their livelihoods, food sovereignty, and cultural identity depend directly on an ancestral and symbiotic link with the water, land, and biodiversity of their territories.<sup>607</sup>
303. The IACtHR has also monitored the increase in socio-environmental conflicts caused by mining, energy, agro-industrial, and infrastructure megaprojects.<sup>608</sup> According to information received, these conflicts

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<sup>604</sup> IACtHR, [Preliminary Observations on the On-Site Visit to Guatemala](#), OEA/Ser.L/V/II. Doc. 124/24, approved on August 15, 2024, para. 45.

<sup>605</sup> Ministry of Public Health, [@MinSaludGuate], (2024, April 30), The Ministry of Public Health and Social Assistance publishes in the @DiariodeCA Government Agreement 152-2024, which agrees to declare, <https://x.com/MinSaludGuate/status/1785300852133007755>.

<sup>606</sup> REDESCA, Press Release No. 059/18, [REDESCA of the IACtHR urges prioritizing actions aimed at realizing the rights to water and sanitation in the hemisphere](#), March 23, 2018.

<sup>607</sup> IACtHR, [Economic, Social, Cultural, and Environmental Rights of Persons of African Descent](#), 2021, p. 83.

<sup>608</sup> [Observatory of Mining Conflicts in Guatemala](#), updated October 1, 2024.

manifest themselves through multiple reports of criminalization, harassment, threats, and violence against defenders of land, territory, and the environment, especially in a context of legal uncertainty regarding land tenure and unequal concentration of rural property. This situation disproportionately affects indigenous peoples, peasant communities, and Afro-descendant communities, whose collective rights to land, territory, and natural resources have not yet been fully recognized or guaranteed by the State.<sup>609</sup> It also confirms the absence or inadequacy of comprehensive regulatory and institutional frameworks that would allow these conflicts to be addressed from a human rights perspective, including the need to recognize the territorial rights of indigenous peoples, establish adequate mechanisms for resolving agrarian disputes, and adopt effective measures for the restitution or relocation of displaced or forcibly evicted persons, in accordance with international principles on durable solutions and the principle of comprehensive reparation.

304. The Commission considers that overcoming structural challenges in the areas of the environment and socio-environmental conflicts in Guatemala requires compliance with international human rights standards in the business sphere, as well as effective compliance with the State's obligations in terms of regulating, supervising, and monitoring business activities. During the visit, the IACHR received information on various initiatives promoted by some actors in the business sector aimed at promoting free competition practices, combating corruption, advancing the implementation of inter-American standards on business and human rights, and promoting environmentally sustainable production models.<sup>610</sup>

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<sup>609</sup> Amnesty International, [The State of Human Rights in the World 2023/2024](#), April 23, 2024; Human Rights Council, Report of the Special Rapporteur on the rights of indigenous peoples on her visit to Guatemala, AHRC39/17/Add.3, August 10, 2018.

<sup>610</sup> Among other initiatives, the IACHR received information on the actions implemented by the Guatemalan Palm Growers Association (GREPALMA) to develop activities that respect the environment and communities, as well as internal policies for the respect of human rights and climate change. See GREPALMA, Voluntary Report to the IACHR, July 25, 2024, on file with the IACHR.

305. However, numerous testimonies were also gathered that reveal the involvement of certain sectors of economic power in practices that have contributed to structural corruption, the improper hoarding of land and natural resources, and the generation of social and agrarian conflicts, to the detriment of the collective rights of indigenous, peasant, and Afro-descendant communities.<sup>611</sup> Information was also gathered on the budgetary and technical limitations faced by some government agencies, such as the Ministry of Environment and Natural Resources, in fulfilling their control and oversight responsibilities, including in relation to the contamination of water resources.<sup>612</sup>

306. The IACtHR reiterates that a healthy environment is an essential requirement for the full exercise and enjoyment of all human rights, both for present and future generations. This assertion is based on the progressive recognition of the right to a healthy environment as an autonomous right, as well as on its cross-cutting nature in guaranteeing other human rights. Consequently, States have an obligation to adopt urgent, effective, and scientifically based measures to prevent, mitigate, and repair environmental damage caused by extractive, industrial, and infrastructure activities that have led to the degradation and contamination of territories. These measures must include ecological restoration, rehabilitation of affected areas, access to environmental justice, and comprehensive reparations for impacted communities. Given this situation, the IACtHR and REDESCA consider it a priority for the State to establish a solid and coherent regulatory and institutional framework that guarantees the effective application of inter-American standards on business and human rights. This framework must incorporate the duty of corporate due diligence in human and environmental rights as a central element and ensure monitoring, oversight, and

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<sup>611</sup> IACtHR, [Preliminary Observations, On-site Visit to Guatemala](#), OEA/Ser.L/V/II/doc.124/24, August 15, 2024, p. 24.

<sup>612</sup> IACtHR, [Preliminary Observations On-site Visit to Guatemala](#), OEA/Ser.L/V/II/doc.124/24, cited above, August 15, 2024, p. 24.

sanctioning mechanisms that prevent corporate impunity and promote accountability in cases of human rights violations associated with business activity.

307. The IACtHR urges the State of Guatemala to design and implement comprehensive plans for mitigation, adaptation, and resilience in the face of the climate emergency, ensuring that these are formulated and implemented from a human rights-based approach. Such plans should prioritize the reduction of activities that cause environmental degradation, the restoration of key ecosystems, and risk prevention, especially for the most vulnerable populations. In this context, it is crucial that the State adopt preventive and preparedness public policies to address the impacts associated with the *La Niña* phenomenon, which could cause a significant increase in rainfall, increasing the risk of floods, landslides, and other extreme hydrometeorological events. These actions are essential to protect both the population and the environment in the context of a growing climate crisis.
308. The Commission highlights the importance of the State ratifying all human rights and environmental treaties that provide greater protection to human rights defenders, as well as defenders of land, territory, and the environment. Specifically, it reiterates the importance and urgency of the prompt ratification of the Regional Agreement on Access to Information, Public Participation and Access to Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement).

# **IMPACT ON PARTICULAR GROUPS**

## IMPACT ON PARTICULAR GROUPS

309. During its on-site visit, the IACtHR observed that violence, structural discrimination, and impunity have a cross-cutting impact on the enjoyment of human rights by historically excluded groups in Guatemala. In this chapter, the IACtHR presents its main findings regarding the situation of indigenous peoples and Afro-descendants, human rights defenders, children and adolescents, women, LGBTI persons, older persons, persons with disabilities, persons in human mobility, and persons deprived of liberty.

### A. Indigenous peoples

310. According to the 2018 Population and Housing Census in Guatemala, 43.4% of the total population identifies as belonging to the Maya and Xinca peoples.<sup>613</sup> The Maya people are made up of 22 different sociolinguistic communities. Most of the indigenous population is located in the departments of Totonicapán (98% of the population is indigenous), Sololá (96.3%), Alta Verapaz (92.9%), Quiché (89.1%), Chimaltenango (78.1%), and Quetzaltenango (50.8%). The overall poverty rate for the entire country is 59.3%, although 79% of this percentage corresponds to the indigenous population.

311. The living conditions of indigenous peoples in the country reflect the structural inequality they face. Among other reasons, structural racism is at the root of inequality and social exclusion, as well as violations of the fundamental rights of indigenous peoples. According to a statistical analysis by the United Nations High Commissioner for Human Rights, 86.1% of Xinca households and 82.3% of Maya households suffer from multidimensional deprivation, while for the country as a whole this percentage is 63.2%.<sup>614</sup>

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<sup>613</sup> National Institute of Statistics, [2018 Census Results](#).

<sup>614</sup> OHCHR Guatemala, [Our Voices for Our Rights. Characterization of the Situation of Indigenous Peoples in Guatemala Based on Official Statistics](#), 2023, p. 209.

312. At the regulatory level, the Constitution of Guatemala recognizes the rights of indigenous peoples to their cultural identity (Article 58) and their way of life (Article 66). The Peace Accords signed in 1996 include the "Agreement on the Identity and Rights of Indigenous Peoples," which commits the State to recognizing and respecting the rights of indigenous peoples, promoting their participation in national life and respect for their forms of organization. These agreements include a chapter on the recognition of a wide range of rights of indigenous peoples, including issues related to the protection of identity, the fight against discrimination, and economic, social, cultural, civil, and political rights. Likewise, in 2009, the Constitutional Court of Guatemala determined that Convention 169 of the International Labor Organization is part of the Guatemalan constitutional bloc, granting it constitutional status.<sup>615</sup>
313. However, in Guatemala there is no specific regulatory framework governing the rights of indigenous peoples and the multidimensional consequences linked, fundamentally, to the protection of access to land, territory, and natural resources and to the right to free, prior, and informed consultation. This vulnerability is compounded by the lack of judicial protection and access to justice.
314. The State does not have disaggregated, high-quality statistical information on indigenous peoples and communities. There are no detailed records on the number of indigenous communities in the country, nor does a territorial survey of the lands they occupy or a registry of community lands exist. The institutional mechanisms for ensuring the participation of indigenous peoples in matters that affect them through their representative authorities are deficient and do not allow decision-making to take into account the priorities and particularities of each ethnic group and territory, as discussed below.

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<sup>615</sup> Constitutional Court, "[The community consultation in the Municipality of San Juan Sacatepéquez, department of Guatemala](#)," File No. 3878/2007, Guatemala, December 21, 2009.

## 1. Land, territories, and natural resources

315. Indigenous peoples in Guatemala face a series of obstacles in exercising their rights to land, territory, and natural resources. Although some communities have ancestral titles, they lack legal security in communal property<sup>616</sup>, which leads to forced evictions and the criminalization of individuals. This practice is facilitated by the lack of legal certainty in land tenure and the actions of private companies and landowners who, through the actions of the judiciary and the Public Ministry, carry out land appropriation.<sup>617</sup>

316. The State of Guatemala, through the Cadastral Information Registry (RIC), has established mechanisms for the registration of indigenous peoples' communal lands. Among these resources, the Specific Regulations for the Recognition and Declaration of Communal Lands, approved in 2009, stand out, allowing for the issuance of administrative declarations in cadastral areas or areas undergoing cadastral registration. Likewise, communal property is recognized in

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<sup>616</sup> Ancestral titles are colonial-era documents recognizing Indigenous ownership, valued primarily as historical and cultural evidence, but often lacking recognition in formal registries, resulting in a lack of legal certainty for Indigenous peoples. Modern communal titles are state-issued or registered titles that grant formal legal recognition, although they generally cover smaller areas than ancestral lands.

<sup>617</sup> Meeting with civil society organizations, Quetzaltenango, July 23, 2024. Information received during the IACtHR's on-site visit to Guatemala, on file with the IACtHR; In this regard, since 2017, the IACtHR has warned that forced evictions are often linked to the lack of legal certainty of Indigenous peoples over their lands. IACtHR, *Situation of Human Rights in Guatemala*, OEA/Ser.L/V/II. Doc. 208/17, December 31, 2017, para. 215 et seq. In 2025, after visiting Guatemala, the United Nations Special Rapporteur on the right to adequate housing concluded that in Guatemala, land concentration in the hands of a few is reinforced by an overvaluation of private property rights. "Indeed, land and housing are seen by the elite mainly as commodities traded for profit, while communities living in poverty consider them essential rights for life. In fact, private property is protected in the Constitution as a right, not only as a commodity, but most Indigenous or peasant populations lack adequate recognition of their property rights. He indicated that collective land titles are rarely registered and, in fact, plural land ownership systems, such as cooperatives, are not evident. Without these plural tenure systems, it is very difficult to fully guarantee access to adequate housing. I call on Guatemala to adopt or reform laws that recognize land and housing cooperatives and guarantee the legal registration of collective land titles of Indigenous peoples and peasant communities." UN Human Rights Council Special Procedures, "End of Mission Statement on Guatemala," Mr. Balakrishnan Rajagopal, United Nations Special Rapporteur on the right to adequate housing, July 25, 2025.

Article 65 of the RIC Law, which enables the RIC to officially register these territories. As part of this effort, 35 communities with communal lands were declared between 2010 and 2024, including Mayan peoples such as the Q'eqchi', Poqomchi', Ch'orti', and Achi. In particular, in 2022, the RIC Board of Directors approved the "Institutional Policy with a Gender and Intercultural Approach in the Cadastral Process" as a mechanism for complying with the national and international commitments made by the Guatemalan State in the area of human rights. This policy allows for the collection of quantitative and qualitative information on land tenure by women and indigenous peoples.<sup>618</sup>

317. Despite these advances, the system has structural deficiencies. The coverage of communal land recognition is limited in relation to the actual extent of indigenous territories in the country, suggesting a restrictive application of the regulatory framework. In addition, most of the recognized lands belong to Ladino/Mestizo communities (398 out of a total of 485)<sup>619</sup>, raising questions about the intercultural adequacy of the process. There are no effective mechanisms to protect against evictions or invasions after registration, and the procedure depends on an institutional initiative that does not always respond to the demands of the communities.
318. A paradigmatic example of this situation is the 2023 ruling of the Inter-American Court, which condemned the State of Guatemala for violations of the rights of the Maya Q'eqchi' indigenous community of Agua Caliente Lote 9, located in El Estor, Izabal.<sup>620</sup> The Court found that for more than four decades, the State had ignored the community's requests to guarantee its right to collective ownership of ancestral lands and, in 2006, granted a mining license on its territory without consultation. As part of the reparations measures, the Court

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<sup>618</sup> Communication from the State of Guatemala, March 10, 2025, p. 30.

<sup>619</sup> Communication from the State of Guatemala, March 10, 2025, p. 30.

<sup>620</sup> Inter-American Court of Human Rights, [Case of the Maya Q'eqchi' Indigenous Community of Agua Caliente v. Guatemala](#), Merits, Reparations and Costs, Judgment of May 16, 2023.

ordered the demarcation and collective titling of the lands, consultations in accordance with the customs and traditions of indigenous peoples, a new independent environmental impact study, and the adoption of domestic legislation to give effect to the right to consultation throughout the country.<sup>621</sup>

319. Various testimonies received by the Commission attest to the deficient regime for the protection of indigenous peoples' land rights in Guatemala. According to testimonies received in Guatemala City, Petén, Quetzaltenango, and Alta Verapaz<sup>622</sup>, there are people with recent titles that overlap with ancestral titles and, through court orders, they are able to have communities evicted. Likewise, indigenous leaders have argued that the municipal authorities themselves grant private property titles on ancestral lands.<sup>623</sup>
320. The Commission took note of the particular situation that exists in the lands under the jurisdiction of the National Council for Protected Areas (CONAP). Although its main objective is to promote and encourage the conservation and improvement of the country's natural heritage, this regime does not provide for the protection of the rights of indigenous peoples nor does it contain standards on consultation or consent of the communities that inhabit these territories.<sup>624</sup> According to the testimonies gathered, these areas have been defined without prior consultation with the indigenous communities that inhabit them and, as a result, are subject to a special protection regime that involves restrictions on access to

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<sup>621</sup> Inter-American Court of Human Rights, [Case of the Maya Q'eqchi' Indigenous Community of Agua Caliente v. Guatemala](#), Merits, Reparations and Costs, Judgment of May 16, 2023.

<sup>622</sup> Meetings with civil society organizations, Guatemala City, July 22, 2024, and Petén, Quetzaltenango, and Alta Verapaz, July 23, 2024. Information received during the IACHR's on-site visit to Guatemala, on file with the IACHR.

<sup>623</sup> Meeting with civil society organizations, Guatemala City, July 22, 2024. Information received during the IACHR's on-site visit to Guatemala, on file with the IACHR.

<sup>624</sup> Human Rights Council, Report of the Special Rapporteur on the rights of indigenous peoples on her visit to Guatemala, A/HRC/39/17/Add.3, August 10, 2018, p. 9.

health and education, as well as restrictions on their capacity for development.<sup>625</sup> In Petén, indigenous leaders mentioned that they had been able to build schools with their own resources, but complained that they had not been assigned to them and that the nearest health posts were five hours away.<sup>626</sup>

321. The constant fear of possible eviction affects communities, as they are unable to farm and develop in their own territories. According to testimonies gathered, the lack of access to land and the impossibility of acquiring new properties force many families to migrate in search of better living conditions<sup>627</sup>, deepening structural inequality and poverty.
322. The Commission recalls the State's duty to recognize and guarantee the collective rights of indigenous peoples over their lands, territories, and natural resources. This implies effectively titling and demarcating their territories, protecting them from third parties, restoring lands taken without consent, and guaranteeing access to adequate judicial resources. These duties are essential to ensure the cultural, physical, and spiritual survival of indigenous peoples.<sup>628</sup>
323. Therefore, the Commission recommends adopting effective and culturally appropriate measures to guarantee the right of indigenous peoples to collective ownership of their lands, territories, and natural resources, and to provide legal certainty in land tenure. In particular,

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625 Meetings with civil society organizations, Petén and Alta Verapaz, July 23, 2024. Information received during the IACtHR's on-site visit to Guatemala, on file with the IACtHR.

626 Meetings with civil society organizations, Petén and Alta Verapaz, July 23, 2024. Information received during the IACtHR's on-site visit to Guatemala, on file with the IACtHR.

627 Meeting with civil society organizations, Petén, July 23, 2024. Information received during the IACtHR's on-site visit to Guatemala, on file with the IACtHR.

628 IACtHR, Case of the Mayagna (Sumo) Awas Tingni Community v. Nicaragua, Merits, Reparations and Costs, Judgment of August 31, 2001, Series C No. 79, para. 153; IACtHR, Case of the Yakye Axa Indigenous Community v. Paraguay, Interpretation of the Judgment on Merits, Reparations and Costs, Judgment of February 6, 2006, Series C No. 142, para. 23; IACtHR, Case of the Xákmok Kásek Indigenous Community v. Paraguay, Merits, Reparations and Costs, Judgment of August 24, 2010, Series C No. 214, para. 109.

with regard to declared Protected Areas, the Commission urges that current legislation be adapted to respect the rights of the indigenous communities that inhabit these territories.

## **2. Free, prior, and informed consultation**

324. Although Guatemala signed Convention 169 of the International Labor Organization (ILO) following the 1996 Peace Accords, there are no specific regulations in the country aimed at its implementation. As a result, the right to free, prior, and informed consultation is systematically violated in extractive, energy, and infrastructure projects.

325. In this regard, the Commission recognizes the efforts made by the Guatemalan government to promote spaces for intercultural dialogue between government agencies, including the Undersecretariat for Political Dialogue and Governance, and indigenous authorities, as in the case of the consultation with the Ixil people on the electricity pylons in San Juan Cotzal, ordered by the Constitutional Court.<sup>629</sup> It also values the work carried out on the consultation process with the Maya Q'eqchi' indigenous people of El Estor and Panzós regarding the "Fénix Mining Extraction" project, ordered by the Constitutional Court (ruling 697-2019)<sup>630</sup> ; the consultation with the Kaqchikel people on the Progreso VII Derivada mining extraction project<sup>631</sup> ; and the consultation process with the Q'eqchi' Maya communities on the "Oxec" and "Oxec II" hydroelectric projects.<sup>632</sup> All of these were led by the Guatemalan Ministry of Energy and Mining.

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<sup>629</sup> Communication from the State of Guatemala, March 10, 2025, p. 31.

<sup>630</sup> Government of Guatemala, Ministry of Energy and Mining, <https://mem.gob.gt/proyecto-extraccion-minera-fenix/>

<sup>631</sup> Government of Guatemala, Ministry of Energy and Mining, <https://mem.gob.gt/proyecto-minero-progreso-vii-derivada/>

<sup>632</sup> Government of Guatemala, Ministry of Energy and Mining, <https://mem.gob.gt/hidroelectrica-oxec-y-oxec-ii/>

326. However, indigenous communities have denounced the lack of access to information, the criminalization of their leaders, and the environmental and social impact of these activities.<sup>633</sup> According to testimonies collected by the Commission, the authorities grant environmental exploration and exploitation licenses without conducting the corresponding free, prior, and informed consultation. In Chinautla, a Mayan community reported that extractive companies continue to operate with licenses that expired more than 25 years ago due to legal loopholes in the Mining Law.<sup>634</sup> According to another testimony, since 2012, the company *Cantera Los Manantiales* has been operating with a license that the Mayan community has opposed since 2016, due to the negative effects of mining, which included: pollution of rivers and air, animal deaths, and spontaneous abortions, according to reports from midwives. Although the Supreme Court of Justice ordered the revocation of the license for violations of the rights of indigenous peoples, the Ministry of Energy and Mines appealed, allowing the company to continue operating while the case is resolved in the Constitutional Court.<sup>635</sup>

327. In addition, communities face barriers to accessing information about extractive projects. According to testimonies received, the Ministry of Energy and Mines only provides information in the capital city, in inaccessible formats such as CDs with thousands of pages, forcing community representatives to seek legal advice while projects continue to move forward without any consultation with the Mayan people in Alta Verapaz.<sup>636</sup> For its part, the Commission learned that this practice also takes place in Izabal and Quetzaltenango;

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<sup>633</sup> IACtHR, 182nd Session hearing: ["Human rights situation of women environmental defenders in Guatemala."](#) December 15, 2021.

<sup>634</sup> Meeting with civil society organizations, Guatemala City, July 22, 2024. Information received during the IACtHR's on-site visit to Guatemala, on file with the IACtHR.

<sup>635</sup> Meeting with civil society organizations, Guatemala City, July 22, 2024. Information received during the IACtHR's on-site visit to Guatemala, on file with the IACtHR.

<sup>636</sup> Meetings with civil society organizations, Guatemala City, July 22 and 23, 2024. Information received during the IACtHR's on-site visit to Guatemala, on file with the IACtHR.

communities denounce the imposition of mining projects without consultation or consent, or cases in which consultation is carried out under a state of repression and coercion, without free consultation. They also reported that the exploitation of resources does not benefit the affected communities, as in the case of Alta Verapaz, where 80% of the indigenous population lacks electricity despite the fact that most of the country's hydroelectric plants are located on their territory. In Quetzaltenango, communities are resisting the installation of hydroelectric projects and the municipal appropriation of their lands without prior consultation.<sup>637</sup> In Chinautla, sand miners have operated without prior consultation, denying the existence of the Pocomam people and violating their territorial rights.<sup>638</sup>

328. For its part, OHCHR noted inconsistencies in the way the meeting was conducted with the Q'eqchi' Maya people of El Estor, Izabal, in the context of the Fénix mining concession. It has also pointed out that consultation processes do not always comply with current international standards, and is therefore maintaining a dialogue with the Ministry of Energy and Mines with the aim of contributing to the strengthening of these procedures.<sup>639</sup>
329. In accordance with established standards in the Inter-American and universal systems, the State has an obligation to guarantee the right of indigenous peoples to free, prior, and informed consultation on any legislative or administrative measure that may affect their rights, territories, or ways of life. This consultation must be carried out in good faith, with the effective participation of indigenous peoples through their own representative institutions, and with the aim of obtaining their consent, especially in cases involving extractive or

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<sup>637</sup> Meeting with civil society organizations, Quetzaltenango, July 23, 2024. Information received during the IACtHR's on-site visit to Guatemala, on file with the IACtHR.

<sup>638</sup> Meeting with civil society organizations, Chinautla, July 24, 2024. Information received during the IACtHR's on-site visit to Guatemala, on file with the IACtHR.

<sup>639</sup> Human Rights Council, [Situation of human rights in Guatemala. Report of the United Nations High Commissioner for Human Rights](#), A/HRC/49/20, March 22, 2022, p. 10.

high-impact projects. The Inter-American Court has emphasized that this obligation is not merely formal, but rather a continuous process that must respect the cultural identity, timelines, and procedures of the peoples consulted. Failure to comply with this state duty constitutes a violation of the collective rights to property, participation, and cultural identity, which are fundamental to the survival and self-determination of indigenous peoples.<sup>640</sup>

330. Therefore, the Commission recommends the design of protocols for free, prior, and informed consultation in accordance with inter-American standards, which should be culturally appropriate to the particularities of each indigenous worldview and should be implemented, especially in the development of extractive or high-impact projects, with a view to obtaining their consent.

### 3. **Forced evictions**

331. As a result of the lack of security of land tenure for indigenous communities, as well as the advance of extractive projects and natural resource exploitation without the corresponding consultation or free, prior, and informed consent, the Commission has become aware of the intensification of forced evictions in recent years, which are carried out without observing international standards in this area and without a protocol establishing guidelines for their implementation or provisions for how to execute a contingency plan for the evicted population.

332. In 2024, OHCHR reported that, between January and November, agrarian conflicts remained a persistent problem in Guatemala. According to OHCHR, two evictions, two threats of eviction, and two extrajudicial evictions were documented, while the Public Prosecutor's Office requested a total of 111 eviction orders. One of

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<sup>640</sup> IACtHR, Case of the Saramaka People v. Suriname, Preliminary Objections, Merits, Reparations and Costs, Judgment of November 28, 2007, Series C No. 172, paras. 133–140; IACtHR, Case of the Rama and Kriol Peoples, Indigenous Black Creole Community of Bluefields and others v. Nicaragua, Merits, Reparations and Costs, Judgment of April 1, 2024, Series C No. 522, paras. 232 and 240.

the most serious cases was in the village of Chirrix Tzul, in Cobán, where sexual assaults against indigenous women were reported during an extrajudicial eviction, only one of which was formally reported. Together, the evictions and attempted evictions affected the rights of at least 524 families, including access to essential services such as health, water, food, and education, with a particularly severe impact on women and children. Similarly, communities living in protected areas face similar situations, as is the case with the community of Santa Amelia in the Lacandon Sierra, whose proposals for sustainable coexistence with nature have not received an effective response from the State.<sup>641</sup>

333. In 2023, five cases of forced evictions affecting 503 families, mostly indigenous, were documented, representing a 101% increase in the number of families affected the previous year, in addition to five attempted evictions that caused uncertainty and fear for another 313 families.<sup>642</sup> In 2022, OHCHR documented five cases of forced evictions affecting 250 families and identified that dialogue processes with communities had been omitted, as in the case of the community of Chicoyou (Alta Verapaz).<sup>643</sup> During 2021, it documented six forced evictions against the communities of Chinebal, Izabal, and Se'inup, Petén, which were "incompatible with international human rights standards due to the lack of prior notification, the disproportionate use of force, and the absence of relocation measures".<sup>644</sup>

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<sup>641</sup> Human Rights Council, [Situation of human rights in Guatemala 2024. Report of the United Nations High Commissioner for Human Rights](#), AHRC/58/22, January 21, 2025, para 42 and 43.

<sup>642</sup> Human Rights Council, [Situation of human rights in Guatemala 2023. Report of the United Nations High Commissioner for Human Rights](#), AHRC/55/21, February 6, 2024, p. 17.

<sup>643</sup> Human Rights Council, [Situation of human rights in Guatemala 2022. Report of the United Nations High Commissioner for Human Rights](#), AHRC/52/23, January 26, 2023, p. 20.

<sup>644</sup> Human Rights Council, [Situation of human rights in Guatemala 2021. Report of the United Nations High Commissioner for Human Rights](#), AHRC/49/20, March 22, 2022, p. 14.

334. In many cases, evictions are authorized by the Public Prosecutor's Office under the charge of aggravated trespassing, a criminal offense introduced in 1996 that does not allow indigenous communities to prove their rights to the lands they inhabit. These orders are usually carried out by the National Civil Police, with the support of the National Council for Protected Areas in protected zones; and in some cases, even with the participation of the army or private security personnel. No prior registry searches are conducted to verify possible collective rights, traditional possession, or good faith on the part of the communities. Nor is advance notice given: communities usually learn of the eviction when security forces arrive, often in excessive numbers, and are required to leave the site immediately. In addition, arrest warrants are frequently issued prior to the eviction, and detentions occur.<sup>645</sup>

335. According to testimonies gathered and public information, evictions are carried out violently, without prior notification, with excessive use of force<sup>646</sup> by police officers and private security agents.<sup>647</sup> These evictions, in addition to expelling people, are also accompanied by the burning of crops, homes, and personal belongings, as well as the killing or theft of animals.<sup>648</sup> As a result, many communities are forced to move, are deprived of access to basic services, and are subjected

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<sup>645</sup> Human Rights Council, Report of the Special Rapporteur on the rights of indigenous peoples on her visit to Guatemala, AHRC/39/17/Add.3, August 10, 2018, p. 9.

<sup>646</sup> In Alta Verapaz, an indigenous leader reported that when his community was evicted in April 2024, the court order was enforced by 2,500 police officers who, faced with resistance from the community, began to attack them. As a result, they had to remain in the mountains for 20 days waiting for a response from the State and have suffered assassination attempts, which they have reported but which the Public Prosecutor's Office has not investigated. Meeting with civil society organizations, Alta Verapaz, July 23, 2024. Information received during the IACHR's on-site visit to Guatemala, on file with the IACHR.

<sup>647</sup> Prensa Comunitaria, "[PNC accused of burning homes and crops during eviction of community in Cobán](#)," June 8, 2024.

<sup>648</sup> Meeting with civil society organizations, Alta Verapaz, July 23, 2024. Information received during the IACHR's on-site visit to Guatemala, on file with the IACHR.

to extreme poverty.<sup>649</sup> All of this occurs without access to justice and with a differentiated and disproportionate impact on children and adolescents, women, older adults, and people with disabilities.

336. The Commission heard numerous testimonies from different regions of the country. In Izabal, a man reported that his community was evicted on May 22, 2024. They are currently refugees in another village with nowhere to settle.<sup>650</sup> In Alta Verapaz, extrajudicial evictions have been carried out by clandestine armed groups organized by landowners. In one case on April 8, 2024, homes were set on fire and violations against women were reported, with no information available on the judicial determination of those responsible.<sup>651</sup> In Quetzaltenango, there has been a disproportionate increase in evictions in recent months.<sup>652</sup> In Petén, communities that work the land have been evicted by CONAP, the National Civil Police (PNC), and the army, on the grounds that they were in protected areas. They were given only 45 minutes to collect their belongings before being expelled. Subsequently, they reported, the land was occupied by farmers who exploit forest resources. Also in Petén, a community evicted seven years ago has still not managed to establish a dialogue with the authorities or access housing solutions.<sup>653</sup> In Chinantla, structural discrimination against the

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<sup>649</sup> IACtHR, 190th Session, hearing: ["Guatemala: Forced internal displacement of indigenous and peasant communities,"](#) July 12, 2024.

<sup>650</sup> Meeting with civil society organizations, Izabal, July 24, 2024. Information received during the IACtHR's on-site visit to Guatemala, on file with the IACtHR.

<sup>651</sup> Meeting with civil society organizations, Alta Verapaz, July 23, 2024. Information received during the IACtHR's on-site visit to Guatemala, on file with the IACtHR.

<sup>652</sup> Meeting with civil society organizations, Quetzaltenango, July 23, 2024. Information received during the IACtHR's on-site visit to Guatemala, on file with the IACtHR.

<sup>653</sup> Meeting with civil society organizations, Petén, July 23, 2024. Information received during the IACtHR's on-site visit to Guatemala, on file with the IACtHR.

Pocomam people has resulted in forced displacement and the loss of their traditional way of life.<sup>654</sup>

337. The problem of evictions is structural and has been exacerbated by the co-opting of the judiciary and the Public Prosecutor's Office. Civil society organizations expressed concern about the actions of the Prosecutor's Office against the Crime of Usurpation, in collusion with judicial authorities, for the benefit of private interests, extractive industries, organized crime, and economic elites.<sup>655</sup> In this context, OHCHR has observed with concern the reform of the Public Prosecutor's Office with regard to the general instructions for the investigation of crimes of trespassing, aggravated trespassing, and trespassing in protected areas.<sup>656</sup>
338. The Commission recommends immediately ceasing the inhuman practice of forced evictions that violate the right to land, territory, and natural resources of indigenous communities. In cases where, even after this issue has been resolved, the eviction is to be carried out anyway, it must strictly comply with international standards, including especially the provision of adequate and culturally appropriate contingency and resettlement plans. Likewise, we urge the review and adjustment of the criminal offense of aggravated trespassing, which has been used to criminalize indigenous communities.

#### **4. Access to justice**

339. The main problems faced by indigenous peoples in asserting their rights are exacerbated by the lack of resources available to access justice. Mistrust of public institutions and the widespread practice of criminalization in response to claims of rights have caused

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<sup>654</sup> Meeting with civil society organizations, Chinautla, July 24, 2024. Information received during the IACtHR's on-site visit to Guatemala, on file with the IACtHR.

<sup>655</sup> Meeting with civil society organizations, Alta Verapaz, July 23, 2024. Information received during the IACtHR's on-site visit to Guatemala, on file with the IACtHR.

<sup>656</sup> Human Rights Council, [Situation of human rights in Guatemala. Report of the United Nations High Commissioner for Human Rights](#), A/HRC/49/20, March 22, 2022, p. 8.

community leaders to refrain from filing complaints for fear of reprisals.<sup>657</sup> In other cases, civil society has turned to the Public Prosecutor's Office, but has received no response to its complaints or has been asked to provide evidence, such as cadastral and anthropological studies, thus creating an additional barrier due to economic constraints.<sup>658</sup> Furthermore, the lack of cultural adaptation and, even more so, the lack of interpreters for indigenous languages hinders access to justice, adding delays to the processes when hearings cannot be held.<sup>659</sup>

340. For its part, indigenous jurisdiction is not recognized in the country. The Commission learned of cases of criminalization of leaders for exercising their jurisdictional functions.<sup>660</sup>
341. Therefore, the Commission recommends that the State adopt sustained measures to guarantee full, equitable, and culturally appropriate access to justice for indigenous communities. It also urges the State to recognize indigenous jurisdiction as an expression of the right to self-determination and to refrain from criminalizing indigenous leaders in the exercise of their own judicial functions. The Commission also recommends adopting measures to guarantee effective access to ordinary justice on equal terms from an intersectional perspective.

## 5. Journalism and community radio stations

342. During the on-site visit, representatives of indigenous community radio stations in El Estor pointed out that, in addition to facing

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<sup>657</sup> Meeting with civil society organizations, Alta Verapaz, July 23, 2024. Information received during the IACHR's on-site visit to Guatemala, on file with the IACHR.

<sup>658</sup> Meeting with civil society organizations, Quetzaltenango, July 23, 2024. Information received during the IACHR's on-site visit to Guatemala, on file with the IACHR.

<sup>659</sup> Meetings with civil society organizations, Petén and Quetzaltenango, July 23, 2024. Information received during the IACHR's on-site visit to Guatemala, on file with the IACHR.

<sup>660</sup> Meeting with civil society organizations, Sololá, July 23, 2024. Information received during the IACHR's on-site visit to Guatemala, on file with the IACHR.

criminal proceedings for covering issues of public interest, women journalists are exposed to different forms of gender-based violence. For example, the director of the indigenous community radio station Xyaab' Tzuultaq'a reported being the target of sexist comments and behavior aimed at delegitimizing her journalistic work in covering the struggles of Q'eqchi' women.<sup>661</sup> Another documented case is that of Rolanda de Jesús García Hernández, a community journalist who, in 2018, was the victim of physical assault, sexual violence, and illegal deprivation of liberty by employees of a hydroelectric company while documenting a complaint of illegal logging on the Cahabón River in Alta Verapaz.<sup>662</sup> As the Court has emphasized, women journalists who work in conflict situations face an increased risk due to a double vulnerability: because they carry out their work in situations of high conflict or violence, and in environments that reinforce gender subordination.<sup>663</sup>

343. On the other hand, they also pointed out that the frequency licensing system in Guatemala, based on high-cost public auctions, effectively excludes indigenous communities due to their limited economic capacity.<sup>664</sup> Despite the orders of the Inter-American Court of Human Rights to adapt domestic regulations and recognize community radio stations—particularly indigenous ones

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<sup>661</sup> Information received by the IACtHR and its RELE during their visit to El Estor, as part of the IACtHR's on-site visit to Guatemala, carried out between July 22 and 26, 2024.

<sup>662</sup> Prensa Comunitaria, [Judge suspends and reschedules hearing for illegal detention of journalist Rolanda García](#), February 16, 2024; Ruda, [The sentence against a worker at the Oxec hydroelectric plant is a "mockery,"](#) March 4, 2024; Prensa Comunitaria, [Being a community journalist is not a crime, the attack against Rolanda García](#), August 26, 2018; IM Defensoras, [Sexual harassment, threats, detention, and attack on the freedom of expression of journalist Rolanda de Jesús García](#), August 28, 2018.

<sup>663</sup> Inter-American Court of Human Rights, Case of Bedoya Lima et al. v. Colombia, Merits, Reparations and Costs, Judgment of August 26, 2021, Series C No. 431, para. 48; IACtHR, Special Rapporteur for Freedom of Expression, [Women Journalists and Freedom of Expression](#), OEA/Ser.L/V/II, IACtHR/RELE/INF.20/18, October 2018, para. 84.

<sup>664</sup> Information received by the IACtHR and its RELE during meetings with journalists, media executives, and civil society organizations, in the context of the IACtHR's on-site visit to Guatemala, carried out between July 22 and 26, 2024.

—as distinct media outlets<sup>665</sup> , the State has not yet adopted a specific law or issued the corresponding government agreement that would provide legal certainty to the stations in question.<sup>666</sup> In this regard, the IACHR was informed that the absence of a legal framework and public policies that guarantee equitable access to the media and promote informational pluralism perpetuates structural exclusion and discrimination.<sup>667</sup>

344. In this context, representatives of community radio stations reported on the delay in the processing of Bill 4087, which, after almost two decades of discussion, has not passed the third reading in Congress. According to the information received, the communities have proposed amendments to bring it into line with inter-American standards; however, a lack of political will has prevented its legislative progress.<sup>668</sup>
345. Regarding the radio spectrum, according to data cited by indigenous communities, the Superintendency of Telecommunications (SIT) has acknowledged that, of more than 1,100 possible frequencies, only 300 are actually in use.<sup>669</sup> They reported that community radio stations had proposed to the previous government a field audit with

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<sup>665</sup> Inter-American Court of Human Rights, Case of the Maya Kaqchikel Indigenous Peoples of Sumpango et al. v. Guatemala, Merits, Reparations and Costs, Judgment of October 6, 2021, Series C No. 440, para. 196.

<sup>666</sup> Information received by the IACHR and its RELE during meetings with journalists, media executives, and civil society organizations, within the framework of the IACHR's on-site visit to Guatemala, carried out between July 22 and 26, 2024.

<sup>667</sup> Information received by the IACHR and its RELE during meetings with journalists, media executives, and civil society organizations, in the context of the IACHR's on-site visit to Guatemala, carried out between July 22 and 26, 2024.

<sup>668</sup> Information received by the IACHR and its RELE during meetings with journalists, media executives, and civil society organizations, as part of the IACHR's on-site visit to Guatemala, carried out between July 22 and 26, 2024.

<sup>669</sup> Information received by the IACHR and its RELE during meetings with journalists, media executives, and civil society organizations, as part of the IACHR's on-site visit to Guatemala, carried out between July 22 and 26, 2024.

international accompaniment to document the hoarding of frequencies by large corporations and demonstrate the availability of the spectrum.<sup>670</sup> They also pointed out that the Mayan indigenous population, which is the majority in Guatemala, continues to be excluded from mechanisms for participation and decision-making in the management of the radio spectrum.<sup>671</sup>

346. Finally, community radio stations expressed their concern to the IACHR about the sustainability of the media, highlighting the case of Canal 5—a state-owned media outlet in the Mayan language—which had ceased operations due to a lack of funding and the impossibility of generating advertising revenue.<sup>672</sup> They also reported situations of criminalization, undue surveillance, restrictions on access to public information, and the refusal of municipal authorities to recognize community and indigenous journalists, in addition to stigmatization by various actors who label them as "agitators," "troublemakers," or "unprofessional".<sup>673</sup> They also highlighted the lack of investigation and punishment of these acts, despite complaints filed with the Public Prosecutor's Office.<sup>674</sup>
347. Media plurality is a fundamental guarantee for the effective exercise of freedom of expression. In this regard, the Inter-American Court of

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<sup>670</sup> Information received by the IACHR and its RELE during meetings with journalists, media executives, and civil society organizations, as part of the IACHR's on-site visit to Guatemala, carried out between July 22 and 26, 2024.

<sup>671</sup> Information received by the IACHR and its RELE during meetings with journalists, media executives, and civil society organizations, as part of the IACHR's on-site visit to Guatemala, carried out between July 22 and 26, 2024.

<sup>672</sup> Information received by the IACHR and its RELE during meetings with journalists, media executives, and civil society organizations, as part of the IACHR's on-site visit to Guatemala, carried out between July 22 and 26, 2024.

<sup>673</sup> Information received by the IACHR and its RELE during their visit to El Estor, as part of the IACHR's on-site visit to Guatemala, carried out between July 22 and 26, 2024.

<sup>674</sup> Information received by the IACHR and its RELE during meetings with journalists, media executives, and civil society organizations, within the framework of the IACHR's on-site visit to Guatemala, carried out between July 22 and 26, 2024.

Human Rights has established that States are internationally obligated to establish laws and public policies that democratize access to the media and ensure informational pluralism in areas such as the press, radio, and television.<sup>675</sup> This obligation implies recognizing, promoting, and facilitating the various forms and uses through which different social sectors access and operate media, creating spaces for differentiated media and establishing legal instruments that provide them with legal certainty.<sup>676</sup> Along these lines, the Joint Declaration on Diversity in Broadcasting established that "community broadcasting should be expressly recognized in law as a differentiated form of media".<sup>677</sup>

348. The Commission notes that, in Guatemala, indigenous community radio stations are not only the main source of information for their communities, but also a key vehicle for the transmission, promotion, and protection of their languages, cultures, and local consumption.<sup>678</sup> According to inter-American jurisprudence, States have an obligation to guarantee the representation of indigenous peoples in the media, in accordance with their ways of life and community structures<sup>679</sup>, as

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<sup>675</sup> Inter-American Court of Human Rights, Case of the Maya Kaqchikel Indigenous Peoples of Sumpango et al. v. Guatemala, Merits, Reparations and Costs, Judgment of October 6, 2021, Series C No. 440, para. 91.

<sup>676</sup> Inter-American Court of Human Rights, Case of the Maya Kaqchikel Indigenous Peoples of Sumpango et al. v. Guatemala, Merits, Reparations and Costs, Judgment of October 6, 2021, Series C No. 440, para. 89.

<sup>677</sup> United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression; Representative of the Organization for Security and Cooperation in Europe (OSCE) on Freedom of the Media, Special Rapporteur on Freedom of Expression of the Organization of American States (OAS); Special Rapporteur of the African Commission on Human and Peoples' Rights (ACHPR) on Freedom of Expression and Access to Information, [Joint Declaration on Diversity in Broadcasting](#), 2007.

<sup>678</sup> Inter-American Court of Human Rights, Case of the Maya Kaqchikel Indigenous Peoples of Sumpango et al. v. Guatemala, Merits, Reparations and Costs, Judgment of October 6, 2021, Series C No. 440, para. 108.

<sup>679</sup> Inter-American Court of Human Rights, Case of the Maya Kaqchikel Indigenous Peoples of Sumpango et al. v. Guatemala, Merits, Reparations and Costs, Judgment of October 6, 2021, Series C No. 440, paras. 46 and 140.

well as to ensure their equitable access to the radio spectrum<sup>680</sup>, given the essential role of these media in preserving their cultural identity and the structural situation of exclusion they face.

349. Likewise, the IACtHR emphasizes that the issues raised by the communities are linked to the judgment of the Inter-American Court of Human Rights in the case of the Maya Kaqchikel Indigenous Peoples of Sumpango et al. v. Guatemala.<sup>681</sup> In response to reports from the communities about the lack of progress, the IACtHR urges the State to move forward in complying with the judgment in accordance with its international obligations.

## **B. Afro-descendant persons**

350. With regard to persons of African descent, the Commission was informed of the existence of three ethnic groups: the Garifuna, English-speaking Creoles, and Afro-Guatemalans who do not identify with the other two ethnic groups. During its on-site observation, the IACtHR made its first visit to the Garifuna people.<sup>682</sup>

351. The Garifuna are a transnational people who inhabit the Atlantic coast of Central America, including Honduras, Belize, Guatemala, and Nicaragua.<sup>683</sup> Their process of ethnogenesis gave rise to a unique identity that combines cultural elements of both African descent and Caribbean indigenous origin. Particularly noteworthy are their own language (Garifuna), their religion marked by Afro-indigenous and

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<sup>680</sup> Inter-American Court of Human Rights, Case of the Maya Kaqchikel Indigenous Peoples of Sumpango et al. v. Guatemala, Merits, Reparations and Costs, Judgment of October 6, 2021, Series C No. 440, paras. 46 and 149.

<sup>681</sup> Inter-American Court of Human Rights, Case of the Maya Kaqchikel Indigenous Peoples of Sumpango et al. v. Guatemala, Merits, Reparations and Costs, Judgment of October 6, 2021, Series C No. 440.

<sup>682</sup> Meeting of the IACtHR with civil society organizations on the Garifuna community in Livingston, held on July 23, 2024, as part of the on-site visit to Guatemala.

<sup>683</sup> González, Nancie L. Solien. *Sojourners of the Caribbean: ethnogenesis and ethnohistory of the Garifuna*. Urbana: University of Illinois Press, 1988.

Catholic syncretism, and their oral tradition. For their part, Creoles are descended from Africans who were enslaved in countries colonized by the English. In contrast, Afro-Guatemalans are recognized as persons of African descent, but do not presently constitute a distinct ethnic group arising from a separate process of ethnogenesis.

352. The Commission notes that, during the 2018 census, the composition of people of African descent within the population was investigated for the first time. The census documented that 56% of the Guatemalan population identifies as Ladino, 41.7% as Maya, 1.8% as Xinka, 0.2% as Afro-descendant, Creole, or Afro-Mestizo, 0.1% as Garifuna, and 0.2% as foreign.<sup>684</sup> While these figures are small nationally, they obscure the regional significance and diversity of Afro-descendant populations.
353. During its visit, the IACHR received information about the possible statistical reduction of this ethnic-racial group in the results of the 2018 census. In particular, these peoples reported that the data collection variable was not based on ethnic-racial self-identification but on regional location, which would have excluded Garifuna and Creole people residing outside the department of Izabal. In addition, the creation of a joint category for Creoles and other Afro-descendants ends up making the former invisible, hindering their participation in the design and implementation of public policies.
354. In this regard, information was received indicating persistent underrepresentation of Afro- descendant persons in decision-making spaces. Affirmative action measures or quotas for this ethnic-racial group at various levels of State authorities are largely absent. There is only one Garifuna representative in the executive bodies, who does not hold a high-level position. In addition, community participation spaces are established in locations far from Garifuna communities, which hinders their effective participation. The Commission received various reports of systemic discrimination

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<sup>684</sup> Guatemala, National Institute of Statistics, [XII National Population Census and VII Housing Census: 2018 Census Results](#), 2019.

against persons of African descent when entering the labor market, which may affect the enjoyment of their social rights.

355. In addition, the Commission received reports that access to justice remains a significant challenge. Legal proceedings conducted in Spanish without offering translation into their language or an intercultural approach.<sup>685</sup> It was reported that, despite the existence of laws against racism, cases reported by afro-descendants do not progress in the judicial sphere, which highlights the lack of effective access to justice and the urgent need for concrete actions to guarantee their rights.<sup>686</sup> According to OHCHR, Garifuna and Afro-descendant women face difficulties in accessing justice in contexts of gender-based violence.<sup>687</sup> The Commission received numerous reports that defenders of the rights of Afro-descendant communities are being criminalized and persecuted.<sup>688</sup>
356. The Commission recalls that States must eradicate the structural discrimination faced by persons of African descent, including the Garifuna and Creole peoples.<sup>689</sup> These actions should include, among other measures, strengthening self-identification mechanisms in official censuses and statistical systems; designing and implementing public policies with an ethnic-racial, gender, and

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<sup>685</sup> Meeting of the IACtHR with civil society organizations on the Garifuna community in Livingston, held on July 23, 2024, as part of the on-site visit to Guatemala.

<sup>686</sup> Meeting of the IACtHR with civil society organizations on the rights of persons of African descent, held on July 22, 2024, as part of the on-site visit to Guatemala.

<sup>687</sup> Human Rights Council, [Situation of human rights in Guatemala 2023. Report of the United Nations High Commissioner for Human Rights](#), A/HRC/55/21, February 6, 2024, para. 27.

<sup>688</sup> Meeting of the IACtHR with civil society organizations on the rights of persons of African descent, held on July 23, 2024, as part of the on-site visit to Guatemala; and Meeting of the IACtHR with ancestral authorities, held on July 23, 2024, as part of the on-site visit to Guatemala.

<sup>689</sup> IACtHR, [Northern Central America and Nicaragua: Economic, Social, Cultural, and Environmental Rights of Indigenous and Afro-descendant Tribal Peoples](#), OEA/Ser.L/V/II, Doc.52/23, March 21, 2023; IACtHR, [Economic, Social, Cultural, and Environmental Rights of Persons of African Descent: Inter-American Standards for the Prevention, Combating, and Eradication of Structural Racial Discrimination](#), OEA/Ser.L/V/II, Doc. 109, March 16, 2021.

intercultural focus; the adoption of affirmative action to ensure the effective representation of these populations in decision-making spaces; and the elimination of barriers to access to justice, guaranteeing translation and training services with a human rights approach. It is also essential that the State ensure the protection of Afro-descendant human rights defenders, investigating with due diligence any act of criminalization or violence against them.

357. The Commission noted that people of African descent continue to face obstacles in accessing and effectively enjoying their economic, social, cultural, and environmental rights. It reported extremely limited access to education: only one in every thousand Garifuna women attends higher education, and the lack of basic infrastructure, such as roads, further hinders this right.<sup>690</sup> There were demands for public universities in areas such as Livingston. Likewise, the intermittent supply of basic public services such as water and electricity was highlighted, which puts the survival of the community at risk, especially that of children, adolescents, and ancestral authorities. It was reported that formal support systems for elderly Garifuna individuals and persons with disabilities are either limited, and often under-resourced or on-existent.

358. The IACtHR was informed that, given the State's failure to guarantee access to health care—particularly in the treatment of people with HIV/AIDS and in the exercise of sexual and reproductive rights—the community depends on the support of international organizations. It was also reported that emergency medical services in Livingston are precarious and that there are no decent employment opportunities.<sup>691</sup>

359. As a result, many young people are forced to leave Livingston in search of better educational and employment opportunities. These forced migrations expose those who leave to the risks of irregular

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<sup>690</sup> Meeting of the IACtHR with civil society organizations on the rights of persons of African descent, held on July 22, 2024, as part of the on-site visit to Guatemala.

<sup>691</sup> Meeting of the IACtHR with civil society organizations on the rights of persons of African descent, held on July 22, 2024, as part of the on-site visit to Guatemala.

migration, while those who remain face worsening structural poverty.<sup>692</sup> The Commission received information indicating that public policies are limited to cultural aspects. With regard to economic and social rights, they are either non-existent or, when they do exist, do not have an adequate budget for their implementation.

360. In this context, the Commission takes note of the information provided by the State on the promotion of actions in Izabal to promote culturally relevant access to health care for Garifuna and Afro-descendant women, through vaccination campaigns, sexual and reproductive health counseling, and health care delivered in the Garifuna language.<sup>693</sup> Likewise, the Garifuna and Afro-descendant peoples have been incorporated into public policies and training processes on interculturality, with activities in Puerto Barrios and Livingston on traditions, mental health, and sex education. It also recognizes the policies for the preservation of Garifuna culture and measures for the demarcation and collective titling of lands of the Garifuna and Creole communities.
361. Despite the measures implemented by the State, during the visit to Livingston, community leaders emphasized that these efforts remain insufficient to ensure the survival of their language and traditions. Likewise, the Commission received information that the traditional lands occupied by the Garifuna are being invaded by undocumented persons or lost to rights holders who disregard the oral tradition of land ownership. This failure to recognize the lands favors the concentration of ownership by private companies and large landowners, fueling agrarian conflicts and the emergence of new peripheral neighborhoods in urban areas, in a context of de-

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<sup>692</sup> Meeting of the IACtHR with indigenous and Afro-descendant authorities on the human rights situation, held on July 25, 2024, as part of the on-site visit to Guatemala.

<sup>693</sup> State of Guatemala, Supplementary and updated information to the on-site visit, March 10, 2025, on file with the IACtHR.

structuring.<sup>694</sup> The Commission recalls that there are inter-American standards that establish the State's duty to recognize the collective ownership of the ancestral lands of the Garifuna peoples, guarantee prior, free, and informed consultation on public matters that affect them, and ensure the comprehensive protection of those who defend their rights.<sup>695</sup>

362. The environmental degradation of the Caribbean Sea, which is essential for the communities' subsistence through tourism, has a direct impact on their living conditions, particularly due to the pollution of the Motagua River and the effects of natural phenomena.<sup>696</sup> Likewise, industrial fishing affects artisanal fishing, reducing their livelihood opportunities. The Commission also received information on deforestation processes driven by large farms. This break with traditional ways of life is exacerbated by the effects of climate change, which cause prolonged droughts and fish shortages, affecting Afro-descendant communities.<sup>697</sup> In this context, food insecurity has become a chronic problem for these populations.
363. Community leaders expressed deep concern about the risks of cultural extinction facing the Garifuna people as a result of the "racialization" of poverty, which leads to precarious living conditions

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<sup>694</sup> Meeting of the IACtHR with civil society organizations on the rights of persons of African descent, held on July 22, 2024, as part of the on-site visit to Guatemala.

<sup>695</sup> Inter-American Court of Human Rights, Case of the Garifuna Community of San Juan and its Members v. Honduras, Preliminary Objections, Merits, Reparations and Costs, Judgment of August 29, 2023, Series C No. 496; Inter-American Court of Human Rights, Case of the Garifuna Community of Triunfo de la Cruz and its Members v. Honduras, Merits, Reparations, and Costs, Judgment of October 8, 2015, Series C No. 305; Inter-American Court of Human Rights, Case of the Garifuna Community of Punta Piedra and its Members v. Honduras, Preliminary Objections, Merits, Reparations, and Costs, Judgment of October 8, 2015, Series C No. 304.

<sup>696</sup> Meeting of the IACtHR with civil society organizations on the rights of persons of African descent, held on July 22, 2024, as part of the on-site visit to Guatemala; Interamerican Association for Environmental Defense (AIDA), Report submitted to REDESCA in the context of the on-site visit to Guatemala, on July 24, 2024, on file with the IACtHR.

<sup>697</sup> Meeting of the IACtHR with civil society organizations on the Garifuna community in Livingston, held on July 23, 2024, as part of the on-site visit to Guatemala.

and forced migration.<sup>698</sup> They pointed to the possible disappearance of their language within 20 years, as well as the absence of public policies with budget allocations aimed at preserving their traditions. This situation is all the more serious when one considers that Garifuna culture—including their language, dance, and music—has been recognized by UNESCO as Intangible Cultural Heritage of Humanity.<sup>699</sup>

364. The Commission recalls that States must adopt urgent, sustained, and intercultural measures to address the structural discrimination affecting Afro-descendant communities.<sup>700</sup> Specifically, the State must design and implement comprehensive public policies with adequate budgets to ensure access to education, health care, decent housing, drinking water, electricity, and employment with fair conditions. Likewise, it must guarantee the protection of ancestral territory through the legal recognition of collective property, prevent and punish invasions, and carry out free, prior, and informed consultations before any measure that affects their lands or ways of life.<sup>701</sup> It is essential to strengthen mechanisms for the preservation and transmission of Garifuna cultural heritage and language through adequately funded educational and cultural programs. In addition, the State must adopt measures to mitigate the effects of climate change and environmental degradation on these communities, including concrete actions to ensure their food security and economic sustainability.

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<sup>698</sup> The expression "cultural extinction" has been used in similar contexts: OHCHR, [UN expert calls for urgent action to prevent climate change from leading to cultural extinction](#), October 22, 2020; UNESCO, [Indigenous languages: Gateways to the world's cultural diversity](#), January 5, 2022.

<sup>699</sup> UNESCO, [Language, dance, and music of the Garifuna](#).

<sup>700</sup> IACHR, [Northern Central America and Nicaragua: Economic, social, cultural, and environmental rights of indigenous and Afro-descendant tribal peoples](#), OEA/Ser.L/V/II, Doc.52/23, March 21, 2023; IACHR, [Economic, Social, Cultural, and Environmental Rights of Persons of African Descent: Inter-American Standards for the Prevention, Combating, and Eradication of Structural Racial Discrimination](#), OEA/Ser.L/V/II. Doc. 109, March 16, 2021.

<sup>701</sup> IACHR, [Right to Self-Determination of Indigenous and Tribal Peoples](#), OEA/Ser.L/V/II. Doc. 413, December 28, 2021.

## C. Human rights defenders

365. During its on-site visit, the Commission observed a positive change in the narrative of some high-level State authorities toward greater recognition of the work of human rights defenders. However, the defense of human rights continues to be a high-risk activity in the country. The information gathered by the IACHR during its visit, as well as through its monitoring mechanisms, reveals the persistence of historically documented patterns such as ongoing acts of violence and the abuse of criminal law as a mechanism for harassment, intimidation, and obstruction of their work.<sup>702</sup>

366. According to the information received, in 2024, attacks against human rights defenders in Guatemala decreased. In particular, the OHCHR recorded 63 cases of attacks against these groups<sup>703</sup>, a significantly lower figure compared to the 100 cases of attacks recorded by this office in 2023.<sup>704</sup> Despite this, violence against defenders has been sustained over time. OHCHR data also indicate that between 2024 and 2019, at least 48 defenders were killed in apparent connection with their advocacy activities.<sup>705</sup> Meanwhile, figures from the Guatemalan Unit for the Protection of Human Rights Defenders (UDEFEGUA) indicate that between 2019 and 2023, there

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702 See Statement by United Nations Special Rapporteurs and Independent Experts, [“UN experts call on the President to take concrete measures to protect civic space in Guatemala,”](#) March 13, 2024.

703 United Nations, Situation of human rights in Guatemala, [AHRC/58/22](#), January 21, 2025, para. 66.

704 Human Rights Council, [Situation of human rights in Guatemala 2023. Report of the United Nations High Commissioner for Human Rights](#), A/HRC/55/21, February 6, 2024, para. 81.

705 Human Rights Council, Situation of human rights in Guatemala, [AHRC/58/22](#), January 21, 2025, para. 69; [Situation of human rights in Guatemala 2023. Report of the United Nations High Commissioner for Human Rights](#), A/HRC/55/21, February 6, 2024, para. 81; Situation of human rights in Guatemala, [AHRC/52/23](#), January 26, 2023, para. 72; Situation of human rights in Guatemala, [A/HRC/49/20](#), March 22, 2022, para. 70; Situation of human rights in Guatemala, [AHRC/46/74](#), February 11, 2021, para. 79; Situation of human rights in Guatemala, [AHRC/43/3/Add.1](#), January 17, 2020, para. 21.

were 50 cases of murders<sup>706</sup>, while Front Line Defenders recorded 51 cases.<sup>707</sup>

367. The Commission has identified that this violence has been focused on members of indigenous and peasant communities or those who defend the land, territory, and/or the environment.<sup>708</sup> At the same time, the implementation of extractive and development projects, the dispossession of common goods, and the dispossession of indigenous, peasant, community, or family lands has led to social tension and division among communities as a result of territorial conflicts.<sup>709</sup>

368. In this regard, figures from Global Witness indicate that between 2012 and 2023, at least 86 defenders of the environment, land, or territory have been murdered in Guatemala.<sup>710</sup> Meanwhile, UDEFEGUA has recorded at least 77 people linked to the defense of the environment, land, and natural resources who were murdered between 2012 and 2020, with 2018 being the deadliest year for

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<sup>706</sup> UDEFEGUA, [Guatemala between democracy and dictatorship](#), April 30, 2024; UDEFEGUA, [Situation of human rights defenders, organizations, and communities in Guatemala, January to December 2022](#), June 2023; UDEFEGUA, [Situation of Human Rights Defenders, Organizations, and Communities in Guatemala, 2021](#), June 2022, p. 1; UDEFEGUA, [Report on the Situation of Human Rights Defenders, Communities, and Organizations 2019-2020](#), May 2020, p. 6.

<sup>707</sup> Front Line Defenders, [Global Analysis 2023](#), May 22, 2024, p. 8; Front Line Defenders, [Global Analysis 2022](#), April 4, 2023, p. 3; Front Line Defenders, [Global Analysis 2021](#), February 23, 2022, p. 5; Front Line Defenders, [Global Analysis 2020](#), February 9, 2021, p. 4; Front Line Defenders, [Global Analysis 2019](#), January 2020, p. 4.

<sup>708</sup> Global Witness figures indicate that between 2023 and 2012, at least 86 environmental, land, and/or territory defenders were killed. See: Global Witness, [Silenced Voices: Violence Against Land and Environmental Defenders](#), September 10, 2024, p. 16; IACtHR, Annual Report 2021, Chapter IVB [Guatemala](#), paras. 164 and 165.

<sup>709</sup> IACtHR, [Northern Central America: Environmental Defenders](#), OEA/Ser.L/V/II. Doc. 40022, December 16, 2022, para. 41; IACtHR, Public Hearing “[Situation of the Human Rights of Environmental Defenders in Guatemala](#),” held during the 182nd Period of Sessions, December 15, 2021.

<sup>710</sup> Global Witness, [Silenced Voices: Violence Against Land and Environmental Defenders](#), September 10, 2024, p. 16.

environmental defenders, with 16 defenders murdered.<sup>711</sup> During its visit, the Commission learned about the case of three women defenders who were murdered in front of their families for defending their communities.<sup>712</sup>

369. Peasant leaders are also frequent victims of violence. The Commission has learned of the serious situation of violence affecting members of the Peasant Development Committee (CODECA) in Guatemala. On May 6, 2023, Nicolasa López Méndez and Victoria Méndez Agustín were murdered in San Luis Jilotepeque, in the department of Jalapa.<sup>713</sup> According to available information, between 2018 and 2023, 27 of its members have been murdered because of their leadership roles and defense of their lands and the environment.<sup>714</sup> In 2021, the IACtHR learned of the murders of Ramón Jiménez López and Emilio Aguilar Jiménez, land defenders and members of CODECA.<sup>715</sup> In 2020, the Commission condemned the murders of at least eight defenders between June and August of that year, all of which were related to the defense of land and territory.<sup>716</sup>

370. As reported to the IACtHR, most of these cases remain unpunished due to undue delays and the lack of due diligence and impartiality on

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711 IACtHR, [Preliminary Observations On-site Visit to Guatemala](#), OEA/Ser.L/V/II.doc.124/24, August 15, 2024, para. 25; Unit for the Protection of Human Rights Defenders (UDEFEGUA), [Situation of Human Rights Defenders, Organizations, and Communities in Guatemala, 2021](#), June 2022, p. 19; IACtHR, Public Hearing “[Situation of the human rights of women environmental defenders in Guatemala](#)” held during the 182nd Session, December 15, 2021; Global Witness, [Enemies of the State? How governments and companies silence land and environmental defenders](#), July 2019, p. 8.

712 IACtHR, Meeting with ancestral authorities in Sololá held during the on-site visit to Guatemala, July 23, 2024.

713 Prensa Comunitaria, [Condemnation of the murder of two women members of CODECA](#), May 8, 2023.

714 International Land Coalition, [We condemn the murders of two human rights defenders in Guatemala](#), May 8, 2023.

715 IACtHR, Annual Report 2021, Chapter IV.B, [Guatemala](#), para. 165.

716 IACtHR, Press Release No. [21520 - IACtHR condemns murders and attacks against human rights defenders in Guatemala](#), September 11, 2020.

the part of the Public Prosecutor's Office in investigating the facts. For example, some cases are not investigated by the agency specializing in crimes committed against activists and human rights defenders of the Human Rights Prosecutor's Office, as it does not consider the victims' link to their work in defense of human rights.<sup>717</sup> In this regard, the Commission shares the concern expressed by OHCHR about the lack of adequate implementation by the Public Prosecutor's Office of General Instruction 5-2018 on crimes against defenders, to ensure independent and timely investigation and, where appropriate, the prosecution of perpetrators to reduce impunity.<sup>718</sup>

371. According to civil society organizations, during the period covered by this report, stigmatizing rhetoric aimed at discrediting the work of human rights defenders has prevailed. During the Giammattei administration, this discourse has come from the highest levels of government.<sup>719</sup> Similarly, civil society noted a deterioration in the digital environment, resulting from the use of social media and the creation of netcenters as a method of defaming, stigmatizing, and spreading hate speech against human rights defenders, as well as issuing threats and attacks against them.<sup>720</sup>
372. These attacks took place in an increasingly restricted civic space. In this regard, the entry into force in 2021 of reforms to the Law on Non-Governmental Organizations for Development and the Civil

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<sup>717</sup> IACHR, [Preliminary Observations On-site Visit to Guatemala](#), OEA/Ser.L/V/II/doc.124/24, August 15, 2024, para. 26.

<sup>718</sup> UN Human Rights, Situation of human rights in Guatemala, [AHRC58/22](#), January 21, 2025, para. 67.

<sup>719</sup> UDEFEGUA, [Guatemala between democracy and dictatorship](#), April 30, 2024, p. 15.

<sup>720</sup> UDEFEGUA, [Situation of Human Rights Defenders, Organizations, and Communities in Guatemala](#), 2023, January 16, 2025, p. 20; International Federation for Human Rights (FIDH), [Guatemala: Defamation Against Jorge Santos, General Coordinator of UDEFEGUA](#), May 19, 2023; Front Line Defenders, [Defamatory statements against human rights defender Jorge Santos and UDEFEGUA](#), May 23, 2023; CEJIL, [Guatemala: CEJIL denounces the criminalization and harassment suffered by human rights defender Jorge Santos](#), May 26, 2023; IACHR, Annual Report 2023, Volume II, [Annual Report of the Special Rapporteur for Freedom of Expression](#), OAS/Ser.L/V/II Doc. 386, December 6, 2023, paras. 806 and 887.

Code was a particularly regressive step, because it established a variety of requirements for the constitution, registration, regulation, operation, and oversight of national and international non-governmental organizations. In addition to these requirements being excessive and disproportionate, in practice they could be used in a discretionary or arbitrary manner to the detriment of civil society organizations in the country.<sup>721</sup>

373. In this context, the Commission reiterates its call on the State to adopt all necessary measures to protect defenders who are at risk as a result of their advocacy activities. It also highlights the importance of the State, at all levels and in all branches, recognizing the importance of the work carried out by defenders in Guatemala and in the consolidation of its democracy and the rule of law.
374. During its visit, the State informed the Commission that the drafting of the policy for the protection of human rights defenders has been completed and is in the process of consultation with civil society organizations<sup>722</sup>, in line with the order of the Inter-American Court of Human Rights in the case of *Human Rights Defender v. Guatemala*.<sup>723</sup> In its supplementary information, the State indicated that the draft Public Policy is currently undergoing technical and legal review by the ministries that will be involved in its implementation. The State is therefore moving forward with its prompt approval through a Government Agreement that will bring it into force.<sup>724</sup> The OHCHR advised on this draft, which assisted in the process of

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<sup>721</sup> IACtHR, Press Release No. 128/21, [The IACtHR and its RELE reject the entry into force of reforms to the Law on Non-Governmental Organizations in Guatemala](#), May 19, 2021.

<sup>722</sup> IACtHR, Meeting with the President of the Republic held during the on-site visit to Guatemala, July 22, 2024, on file with the IACtHR.

<sup>723</sup> Inter-American Court [of Human Rights](#), [Case of Human Rights Defender et al. v. Guatemala](#), Preliminary Objections, Merits, Reparations, and Costs, Judgment of August 28, 2014, Series C No. 283, Section C.4.

<sup>724</sup> Presidential Commission for Peace and Human Rights (COPADEH), Supplementary and updated information on the on-site visit of the Inter-American Commission on Human Rights to Guatemala, carried out during the month of July 2024, March 12, 2025.

socialization and validation of the participation of the human rights defense community throughout various territories of the country, including indigenous leaders, people of African descent, journalists, and justice operators.<sup>725</sup>

375. Additionally, on August 28, 2024, Ministerial Agreement 214-24 was approved, reestablishing the Body for the Analysis of Attacks against the Right of Indigenous Peoples, Organizations, Communities, and Authorities to Defend Human Rights.<sup>726</sup> This body, created in 2008 to analyze patterns of attacks against human rights defenders and identify actions for protection and rapid response<sup>727</sup>, was an important forum for coordination and the submission of requests for rapid response in situations of risk to defenders.<sup>728</sup> In 2020, the government in power terminated it after not renewing its mandate<sup>729</sup>, so the measure adopted by the current Guatemalan government represents a step forward in favor of the protection of defenders.

## D. Children and adolescents

376. The situation of children and adolescents in Guatemala, who represent approximately 38.8% of the country's population<sup>730</sup>, continues to be of particular concern to the IACtHR. Despite the efforts made by the State during its on-site visit, the Commission noted the persistence of structural factors that prevent the full

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<sup>725</sup> UN Human Rights, Situation of human rights in Guatemala, [AHRC5822](#), January 21, 2025, para. 70.

<sup>726</sup> Diario de Centroamérica, [Ministry of the Interior, Ministerial Agreement 214-24](#), August 28, 2024.

<sup>727</sup> WOLA, [Protecting Human Rights in Guatemala: Assessing the State's Capacity to Protect and Promote Human Rights](#), December 2019, p. 16.

<sup>728</sup> IACtHR, [Northern Central America, Environmental Defenders](#), OEA/Ser.L/V/II. Doc. 40022, December 16, 2022, para. 260; UN Human Rights and PDH Guatemala, [Situation of Human Rights Defenders in Guatemala: Between Commitment and Adversity](#), May 2019, paras. 83 and 84.

<sup>729</sup> IACtHR, Annual Report 2020, Chapter V, [Third follow-up report on the recommendations made by the IACtHR in the report on the human rights situation in Guatemala](#), 2020, para. 184.

<sup>730</sup> National Institute of Statistics, [Statistical Compendium with a Focus on Children and Adolescents 2022](#), 2023, p. 3.

exercise of their rights<sup>731</sup>, which are analyzed below. These include: (i) obstacles to guaranteeing their economic, social, and cultural rights, stemming from structural poverty; (ii) the impact of violence on their lives, particularly violence caused by gangs; and (iii) difficulties in protecting children and adolescents who are victims of various forms of violence.

## 1. **Obstacles to guaranteeing economic, social, and cultural rights**

377. The IACHR observed structural challenges that particularly affect children and adolescents, reflected in a child poverty rate of over 50%<sup>732</sup> and multiple challenges in the exercise of their rights. According to UNICEF, half of children under 5 in Guatemala suffer from chronic malnutrition, and only 52% of children aged 6 to 23 months receive adequate nutrition.<sup>733</sup> This situation has worsened in recent years. According to civil society, between 2017 and 2023, cases of child malnutrition have increased by 125%, while the budget to combat it has been reduced. This increase is attributed to limited equitable access to land and water, environmental degradation, and the high cost of basic foodstuffs. In rural areas, 8 out of 10 children suffer from chronic malnutrition.<sup>734</sup>

378. With regard to the right to education, the Commission was informed that, although the National Education Law establishes that 7% of GDP should be allocated to the education sector<sup>735</sup>, since 2015 only around

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<sup>731</sup> Inter-American Commission on Human Rights, [Situation of Human Rights in Guatemala](#), OEA/Ser.L/V/II. Doc. 208/17, December 31, 2017, paras. 364 to 373.

<sup>732</sup> Information provided to the IACHR during meetings with United Nations agencies held in the context of the on-site visit, Guatemala, July 24, 2024.

<sup>733</sup> UNICEF, [Recipes that are changing the course of Guatemala](#), February 22, 2024.

<sup>734</sup> Information provided to the IACHR during meetings with civil society organizations held in the context of the on-site visit to Guatemala, July 24 and 25, 2024.

<sup>735</sup> Congress of the Republic of Guatemala. [Legislative Decree No. 12-91 National Education Law](#), January 12, 1991, Article 102.

3% has been allocated.<sup>736</sup> This means that millions of children in the country are unable to study. According to UNICEF estimates, in 2023, an average of 2.7 million children and adolescents in Guatemala were outside the education system.<sup>737</sup> In addition, information from civil society indicates that many girls, especially indigenous girls in rural areas, drop out of school before completing sixth grade.<sup>738</sup> Among the causes, the Committee on Economic, Social and Cultural Rights highlighted early pregnancies and the lack of adequate sex and reproductive education programs.<sup>739</sup>

379. Based on the foregoing, the IACtHR recalls the State's obligation to allocate funds for the progressive realization of the economic, social, and cultural rights of children and adolescents to the maximum extent of available resources, which requires sustained efforts over time to achieve the goal.<sup>740</sup>

## **2. Violence against children and adolescents**

380. During its on-site visit, the Commission observed state measures aimed at preventing and combating violence against children and adolescents. In particular, the IACtHR highlights the Comprehensive Care Model for Children and Adolescents (MAINA), launched in 2019, which offers immediate and coordinated care to prevent revictimization and improve criminal investigation.<sup>741</sup> Also noteworthy are the Crime

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<sup>736</sup> Information provided to the IACtHR during meetings with civil society organizations held in the context of the on-site visit to Guatemala, July 24 and 25, 2024.

<sup>737</sup> UNICEF, [Investing in Children](#), 2023, p. 27.

<sup>738</sup> Human Rights Watch, [Submission to the United Nations Committee on the Rights of the Child Guatemala](#), November 9, 2023.

<sup>739</sup> Committee on Economic, Social, and Cultural Rights. [Concluding observations on the fourth periodic report of Guatemala](#), E/C.12/GTM/CO/4, November 11, 2022, para. 52.

<sup>740</sup> In this regard, see: IACtHR, [Towards the Effective Guarantee of the Rights of Children and Adolescents: National Protection Systems](#), OEA/Ser.L/V.166 Doc. 206/17, November 30, 2017, para. 261.

<sup>741</sup> United Nations, Human Rights Council, [National report submitted pursuant to Human Rights Council resolutions 5/1 and 16/21](#), AHRC/WG.6/42/GTM/1, October 21, 2022, para. 28.

Prevention Programs launched in 2024, aimed at crime prevention and citizen security with a focus on the protection of children and adolescents<sup>742</sup>, and the "Policía Tu Amigo" (Police Your Friend) program, which seeks to provide students with the tools to promote good coexistence within educational centers.<sup>743</sup> However, it noted the persistence of violence in cases of homicide, disappearances, physical and sexual violence, forced child or adolescent pregnancies, and forced recruitment by criminal organizations.

381. The protection of the life and personal integrity of children and adolescents in Guatemala still presents challenges. Data from the National Institute of Statistics indicate that in 2022, the homicide rate among children and adolescents was 2.82 points, compared to 2.6 in 2021<sup>744</sup>, representing an increase of 8.05%. In addition, the Commission received information from civil society organizations about the alarming number of disappearances of children and adolescents, with an estimated 61,000 having disappeared in the last 10 years.<sup>745</sup> The probability of disappearance increases for boys aged 12 and above and girls aged 10 and above. They also pointed out that missing boys are found more often, while girls, for the most part, are not usually found.<sup>746</sup>

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<sup>742</sup> Ministry of the Interior, Government of Guatemala, [Crime Prevention Programs Strengthened to Protect Children and Adolescents](#), May 8, 2024.

<sup>743</sup> Committee on the Rights of the Child, [Concluding observations on the seventh periodic report of Guatemala](#), CRCC/GTMCO/7, June 21, 2024, para. 27; Ministry of the Interior, Government of Guatemala, ["Authorities join forces to prevent the recruitment of adolescents into criminal groups."](#), April 5, 2023; Ministry of the Interior, Government of Guatemala, [Government prioritizes the protection of Guatemala's youth](#), May 8, 2024.

<sup>744</sup> National Institute of Statistics, Government of Guatemala, [Statistical Compendium with a Focus on Children and Adolescents 2022](#), December 2023, p. 71.

<sup>745</sup> Information provided to the IACHR during meetings with civil society organizations held in the context of the on-site visit to Guatemala, July 24 and 25, 2024.

<sup>746</sup> Information provided to the IACHR during meetings with civil society organizations held during the on-site visit to Guatemala, July 24 and 25, 2024.

382. According to public data, between January and August 2024, the Public Prosecutor's Office received a total of 9,496 reports of crimes against children and adolescents.<sup>747</sup> The IACHR has no information on the results of those complaints. In this regard, the IACHR shares the concerns expressed by the Committee on the Rights of the Child about the high levels of violence, even within care institutions.<sup>748</sup> It also warns that children living in rural areas face a greater risk. In this regard, the Committee on Economic, Social, and Cultural Rights highlighted that this population is victimized by labor exploitation and physical, psychological, and sexual violence, even in their homes. It also highlighted the lack of progress in judicial investigations.<sup>749</sup>

383. With regard to sexual violence, the IACHR warns of the persistence of these practices, which sometimes lead to forced child or adolescent pregnancies due to the absolute prohibition of abortion.<sup>750</sup> In this regard, the Committee on the Rights of the Child has noted that the high level of sexual violence against children and adolescents in the country is reflected in the high number of alleged victims recorded in public data since 2016, which indicates approximately 90 victims per 100,000 inhabitants.<sup>751</sup> However, this number could be even higher considering that, as reported by civil society organizations, there is a lack of accurate and disaggregated data. In addition, the lack of adequate protocols to punish these crimes would also impact the recording of cases. Furthermore, the

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<sup>747</sup> Prensa Libre, "[Children's Day: 27% of Guatemalans are under 12 years of age and have limited opportunities.](#)" October 1, 2024; and La Red, [Children's Day: Guatemalan children, a sector forgotten in state policies.](#) October 1, 2024.

<sup>748</sup> Committee on the Rights of the Child, [Concluding observations on the seventh periodic report of Guatemala.](#) CRCC/GTMCO/7, June 21, 2024, para. 23.

<sup>749</sup> Committee on Economic, Social, and Cultural Rights, [Concluding observations on the fourth periodic report of Guatemala.](#) E/C.12/GTMCO/4, November 11, 2022, para. 32.

<sup>750</sup> The Criminal Code of Guatemala criminalizes abortion in all circumstances, except in cases where the life of the pregnant woman is at risk (articles 133 to 140).

<sup>751</sup> Committee on the Rights of the Child, [Concluding observations on the seventh periodic report of Guatemala.](#) CRCC/GTMCO/7, June 21, 2024, para. 23.

IACHR was informed of the need to improve access to justice for survivors of sexual violence.<sup>752</sup>

384. The IACHR warns that sexual violence against girls and adolescent women represents an obstacle to their access to education. According to information from civil society, numerous cases of sexual violence committed by teachers have been documented, forcing many girls to drop out of school. In rural areas, this problem is exacerbated by the fact that classes are often held in the afternoon, causing parents to fear that their daughters will be assaulted on their way home at night.<sup>753</sup> Added to this is the dropout rate among girls who have been forcibly impregnated.<sup>754</sup>
385. Similarly, civil society organizations alerted the IACHR to forced motherhood among girls and adolescents in Guatemala due to sexual violence and the total ban on abortion, exacerbated by the lack of sexual and reproductive health services.<sup>755</sup> According to the Reproductive Health Observatory (OSAR), in 2022 a total of 47,274 pregnancies were documented in girls and adolescents, including 2,175 among girls aged 12 to 14 and 27,871 among adolescents aged 15 to 17. In 2023, 43,712 pregnancies were recorded, including 2,268 in girls aged 12 to 14 and 25,378 in adolescents aged 15 to 17.<sup>756</sup>
386. The IACHR notes that the criminalization of abortion is established in almost all circumstances, except in cases of therapeutic abortion to

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<sup>752</sup> Information provided to the IACHR during meetings with civil society organizations held in the context of the on-site visit to Guatemala, July 24 and 25, 2024.

<sup>753</sup> Human Rights Watch, [Submission to the United Nations Committee on the Rights of the Child, Guatemala](#), November 9, 2023.

<sup>754</sup> Committee on Economic, Social, and Cultural Rights, [Concluding observations on the fourth periodic report of Guatemala](#), E/C.12/GTM/CO/4, November 11, 2022, para. 52.

<sup>755</sup> Information provided to the IACHR during meetings with civil society organizations held during the on-site visit to Guatemala, July 24 and 25, 2024.

<sup>756</sup> OSAR, [Birth and Pregnancy Registrations for Teenage Mothers – Year 2023](#), 2023; and [Pregnancies and Birth Registrations for Teenage Mothers – Year 2022](#), 2022.

protect the life of the pregnant person, under extremely restrictive conditions.<sup>757</sup> According to civil society, in practice, medical personnel arbitrarily interpret this exception, limiting it to cases of imminent risk of death. This hinders access to legal and safe abortion for girls under 14, whose pregnancies are, in the vast majority of cases, the result of sexual violence and pose an inherent risk to their lives.<sup>758</sup> In addition to the above, barriers to maternal care persist due to a lack of medical supplies and physical, economic, and discriminatory obstacles. In rural areas, the shortage of essential supplies forces pregnant girls and their families to travel long distances, adding to the economic burden on low-income households.<sup>759</sup>

387. Finally, in relation to forced recruitment, the IACtHR reiterates its alarm at the risk faced by children and adolescents of being forcibly recruited by gangs.<sup>760</sup> During its on-site visit, the Commission found that organized crime groups continue to affect thousands of children and adolescents who, in the context of their recruitment, suffer various forms of violence, including human trafficking for sexual exploitation.<sup>761</sup> SBS staff informed the IACtHR that, in recent years, the recruitment of this population has increased and is occurring at increasingly younger ages. This is because criminal groups seek to

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<sup>757</sup> IACtHR, [Annual Report, Chapter IV. B “Guatemala.”](#) 2021, para. 223.

<sup>758</sup> Information provided to the IACtHR during meetings with civil society organizations held in the context of the on-site visit, Guatemala, July 24 and 25, 2024; Center for Reproductive Rights, Equality Now, and Women Transforming the World, Report prepared for the Inter-American Commission on Human Rights’ on-site visit to Guatemala, IACtHR Archive, July 27, 2024, pp. 2 and 3; and Human Rights Watch, [Submission to the United Nations Committee on the Rights of the Child, Guatemala.](#) November 9, 2023.

<sup>759</sup> Human Rights Watch, [Submission to the United Nations Committee on the Rights of the Child, Guatemala.](#) November 9, 2023.

<sup>760</sup> IACtHR, [Northern Central America: Organized Crime and the Rights of Children, Adolescents, and Youth: Challenges and State Actions.](#) OEA/Ser.L/V/II. Doc. 51/23, February 16, 2023, paras. 142-143, 158-162, 393-394.

<sup>761</sup> In this regard, see: IACtHR, [Preliminary Observations on the On-Site Visit to Guatemala.](#) OEA/Ser.L/V/II. Doc. 124/24, approved on August 15, 2024, para. 71.

recruit persons under the age of 13, as they are exempt from juvenile criminal responsibility.<sup>762</sup>

388. According to official data, the recruitment of children and adolescents in Guatemala occurs through threats, violence, and deception, forcing them to collaborate with criminal groups and exposing them to criminal justice.<sup>763</sup> In areas controlled by organized crime groups, many are forced to join, while others do so seeking protection from the violence they face.<sup>764</sup> Recruited children and adolescents are often forced, from the age of 6, to transport drugs, weapons, and messages between gangs, while adolescents aged 13 to 17 are forced to commit homicides.<sup>765</sup>

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762 Information provided to the IACHR during a meeting with staff of the Undersecretary for Protection of the Secretariat of Social Welfare held during the visit to the Zafiro 1 residence as part of the on-site visit, Guatemala, July 24, 2024; and Information provided to the IACHR during a meeting with staff from the Undersecretary for Protection of the Secretariat for Social Welfare held during the visit to the residence for girls who are victims of sexual violence and trafficking as part of the on-site visit, July 24, 2024. See also: Congress of the Republic, Guatemala, [Decree 27-2003 Law on the Protection of Children and Adolescents, 2003](#), Article 134.

763 Information provided to the IACHR during a meeting with staff from the Undersecretary for Protection of the Secretariat for Social Welfare held during the visit to the Diamante 1 residence as part of the on-site visit, July 25, 2024; and Information provided to the IACHR during a meeting with staff from the Undersecretary for Protection of the Secretariat for Social Welfare held during the visit to the Zafiro 1 residence as part of the on-site visit, July 24, 2024. See also: IACHR, Press Release No. 114/17 - [Preliminary Observations from the IACHR's On-Site Visit to Guatemala](#), August 4, 2017.

764 Information provided to the IACHR during a meeting with staff of the Undersecretary for Protection of the Secretariat of Social Welfare held during the visit to the Diamante 1 residence as part of the on-site visit, July 25, 2024; and Information provided to the IACHR during a meeting with staff of the Undersecretary for Protection of the Secretariat of Social Welfare held during the visit to the Zafiro 1 residence as part of the on-site visit, July 24, 2024. See also: IACHR, [Northern Central America: Organized Crime and the Rights of Children, Adolescents, and Youth: Challenges and State Actions](#), OAS/Ser.L/V/II. Doc. 51/23, February 16, 2023, para. 161; and UNICEF, [Uprooted in Central America and Mexico](#), August 2018, p. 6.

765 See: IACHR, [Northern Central America: Organized Crime and the Rights of Children, Adolescents, and Youth: Challenges and State Actions](#), OEA/Ser.L/V/II. Doc. 51/23, February 16, 2023, para. 162; and Save the Children. In the Crossfire: The Impact of Gang Violence on Education in the Northern Triangle of Central America, June 25, 2019, p. 24.

### **3. Challenges in protecting children and adolescents who are victims of violence**

389. During its on-site visit, the Commission found that the main challenges to protecting children and adolescents from violence include the absence of a consolidated and coordinated national protection system; institutional challenges within the SBS in providing care to children and adolescents who are victims of violence in protective residences; and obstacles to deinstitutionalization.

#### ***a. Absence of a coordinated system***

390. As noted by the Commission in its 2017 report, the State of Guatemala lacks a sufficiently effective, coordinated, and integrated national system for the protection of children's rights, because the Comprehensive Protection of Children and Adolescents Act (Ley PINA) does not clearly establish a comprehensive protection system with a high-level entity for inter-institutional coordination and integration. Under this legislation, comprehensive protection policies are formulated by the National Commission and the Municipal Commissions for Children and Adolescents.<sup>766</sup>

391. Given these limitations, Bill No. 5,285, which aims to reform the domestic regulatory framework to establish a comprehensive protection system in line with international standards in this area, has been pending approval since 2017.<sup>767</sup> In this regard, the IACtHR shares and endorses the May 2024 statement by the United Nations Committee on the Rights of the Child, which called on the State to adopt this bill.<sup>768</sup> In this regard, the Commission emphasizes that its approval is key to providing true comprehensive protection to children and adolescents who are victims of violence in the country,

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<sup>766</sup> Inter-American Commission on Human Rights, [Situation of Human Rights in Guatemala](#), OEA/Ser.L/V/II. Doc. 208/17, December 31, 2017, para. 430.

<sup>767</sup> IACtHR, [Annual Report Chapter IV.B. Guatemala](#), 2021, para. 225.

<sup>768</sup> Committee on the Rights of the Child, [Concluding observations on the seventh periodic report of Guatemala](#), CRCC/GTM/CO/7, May 30, 2024.

who are currently sent to shelters or SBS protection residences by court order and then returned to their families without addressing the causes of the problem affecting them.<sup>769</sup> This point will be developed further below.

392. The Commission warns that the absence of an effective national protection system highlights the urgent need for the State to adapt its institutions at all levels to guarantee children's rights in a comprehensive manner. According to Articles 19 of the American Convention on Human Rights and VII of the Declaration on the Rights of the Child, the State must create a system that protects, respects, and guarantees these rights. It also highlights the importance of a protection system with the structure and operational capacity necessary to enforce these rights. Without these elements, the rules and treaties are unenforceable, leaving children in a vulnerable situation.<sup>770</sup>

***b. Challenges in terms of the institutional framework of the Secretariat for Social Welfare (SBS)***

393. As the Commission has already stated, the absence of a coordinated and effective national protection system has led the SBS to assume the role of governing body responsible for caring for children and adolescents who are victims of various situations that violate their rights, including violence, disability, and substance abuse, among others.<sup>771</sup> While the IACtHR recognizes the efforts made by the SBS

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<sup>769</sup> Information provided to the IACtHR during meetings with United Nations agencies held in the context of the on-site visit, July 24, 2024.

<sup>770</sup> IACtHR, [Toward the Effective Guarantee of the Rights of Children and Adolescents: National Protection Systems](#), OEA/Ser.L/V/II.166 Doc. 206/17, November 30, 2017, para. 99.

<sup>771</sup> IACtHR, [Situation of Human Rights in Guatemala](#), OEA/Ser.L/V/II. Doc. 208/17, December 31, 2017, para. 431.

to fulfill these functions, it also notes the lack of institutional framework and resources to provide adequate care.<sup>772</sup>

394. In particular, it notes that the SBS is not considered part of the process of protecting children and adolescents, despite being the entity responsible for their care. This exclusion limits its ability to offer comprehensive care. For example, when a child or adolescent is received in a residence, the judicial proceedings supporting the decision are not accompanied. Even if the court conducts medical examinations, the results are not transmitted to the SBS. Thus, all knowledge about the situation of the child or adolescent depends on what they themselves tell SBS staff.<sup>773</sup> Similarly, the Attorney General's Office transfers children and adolescents to SBS residences without providing the relevant reports, limiting itself to the criminal investigation of the case and disassociating itself from subsequent protection.<sup>774</sup>
395. This situation reflects the lack of coordination between the entities responsible for protecting children in Guatemala, which puts their lives and integrity at risk. In light of these challenges, SBS staff informed the IACtHR of the urgent need to improve inter-institutional coordination, especially to protect victims of violence, who require specific security measures. They also pointed out the importance of strengthening the role of the Presidential Commission for Peace and the Human Rights Ombudsman to ensure independent oversight.<sup>775</sup>

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<sup>772</sup> Information provided to the IACtHR during meetings with staff of the Undersecretariat for Protection of the Secretariat of Social Welfare held during the on-site visit, July 24 and 25, 2024.

<sup>773</sup> Information provided to the IACtHR during meetings with staff of the Undersecretariat for Protection of the Secretariat for Social Welfare held during the on-site visit, July 24 and 25, 2024.

<sup>774</sup> Information provided to the IACtHR during a meeting with staff from the Undersecretary for Protection of the Secretariat for Social Welfare held during the visit to the Diamante 1 residence as part of the on-site visit on July 25, 2024.

<sup>775</sup> Information provided to the IACtHR during a meeting with staff of the Undersecretariat for Protection of the Secretariat of Social Welfare held during the visit to the Diamante 1 residence as part of the on-site visit, July 25, 2024.

396. In addition, the Commission was informed of the importance of improving collaboration between the SBS and the Ministry of Health to ensure proper medical care for children and adolescents in SBS residences. Although this population receives care at the National Hospital, the SBS must cover the costs of medications through a slow and insufficient process. Furthermore, there is no coordination with the Ministry of Education; rather, the SBS is responsible for hiring the educators who work in the residences.<sup>776</sup> The SBS informed the IACHR that, in order to address this situation, it is working on an agreement to promote greater institutional coordination and distribution of responsibilities among the institutions involved in the protection of children and adolescents, beginning with the Ministry of Health and the Ministry of Education.<sup>777</sup>

397. Furthermore, the IACHR also notes with concern the lack of financial and human resources at the SBS. During its visit, the IACHR observed firsthand that there are insufficient staff to cover all protection, education, and health needs, including mental health. In addition, staff reported low budget allocations, resulting in shortages of beds, school supplies, clothing, and games for the residences. On occasion, SBS staff cover these needs with their own resources, yet they have not received a pay raise in five to seven years. This situation leads to demotivation and, at times, a lack of trained personnel willing to work under these conditions.<sup>778</sup>

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<sup>776</sup> Information provided to the IACHR during a meeting with staff from the Undersecretary for Protection of the Secretariat for Social Welfare held during the visit to the Diamante 1 residence as part of the on-site visit, July 25, 2024.

<sup>777</sup> Information provided to the IACHR during a meeting with staff from the Undersecretary for Protection of the Secretariat for Social Welfare held during the visit to the residence for girls who are victims of sexual violence and trafficking as part of the on-site visit, July 24, 2024.

<sup>778</sup> Information provided to the IACHR during a meeting with staff from the Undersecretary for Protection of the Secretariat for Social Welfare held during the visit to the Diamante 1 residence as part of the on-site visit, July 25, 2024. and Information provided to the IACHR during a meeting with staff of the Undersecretary for Protection of the Secretariat for Social Welfare held during the visit to the Zafiro 1 residence as part of the on-site visit, July 24, 2024.

398. On this point, the IACHR recalls that the obligation of States to effectively guarantee the rights of children and adolescents requires coordination between sectors, actors, and levels of government, with an interdisciplinary approach that uses diverse knowledge to address issues in a comprehensive manner.<sup>779</sup> In this regard, the Commission calls on the State of Guatemala to strengthen inter-institutional participation and coordination in the protection of children, involving all responsible ministries and entities, in order to move toward a multisectoral model.<sup>780</sup> To this end, it highlights the importance of the adequate allocation of financial and human resources to guarantee the rights of children and adolescents.

***c. Institutionalization of children and adolescents for protection reasons***

399. In Guatemala, the Comprehensive Protection of Children and Adolescents Act stipulates that shelter is a provisional and exceptional measure that can be used as a transition to the provisional or permanent "placement" of children and adolescents in a foster family or home, and does not in any case imply deprivation of liberty.<sup>781</sup> Thus, protection and shelter residences provide temporary residential protection to those children and adolescents who have been separated from their parents or guardians as a result of the violation of their rights, by order of the "Judge for Children and Adolescents".<sup>782</sup>

400. The SBS Undersecretary for Child and Adolescent Protection and Care is responsible for planning, organizing, approving, directing,

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<sup>779</sup> IACHR, [Toward the Effective Guarantee of the Rights of Children and Adolescents: National Protection Systems](#), OEA/Ser.L/V/II.166 Doc. 206/17, November 30, 2017, para. 48.

<sup>780</sup> In this regard, see: IACHR, [Toward the Effective Guarantee of the Rights of Children and Adolescents: National Protection Systems](#), OEA/Ser.L/V/II.166 Doc. 206/17, November 30, 2017, para. 75.

<sup>781</sup> Congress of the Republic, Guatemala, [Decree No. 27-2003 Law on Comprehensive Protection of Children and Adolescents](#), 2003, Article 114.

<sup>782</sup> Secretariat of Social Welfare of the Presidency of the Republic, Government of Guatemala, [Protection and Shelter Homes](#), 2024.

supervising, and evaluating programs and actions that provide temporary foster care, protection, and residential and non-residential shelter alternatives for children and adolescents who, by order of a competent judicial authority, are separated from their families or do not have families.<sup>783</sup> For its part, the National Adoption Council (CNA) is the entity responsible for following up on the authorization, registration, supervision, and monitoring of homes that provide shelter.<sup>784</sup> This includes 129 private homes and 19 public homes administered by the SBS Undersecretary of Protection.<sup>785</sup>

401. According to information provided by the State, in 2024, 2,737 protection and shelter measures were issued for children and adolescents in order to guarantee their rights in the absence of a suitable family environment. Of the total, 1,589 corresponded to male children and adolescents, and 1,148 to female children and adolescents. In addition, it was specified that 1,605 were placed in homes under the management of the SBS and 1,132 in private homes.<sup>786</sup>
402. The Commission was informed that the decision on the placement of children and adolescents rests with the courts. However, private homes often reject children or adolescents when they reach their maximum capacity, or those they consider "problematic," so these homes do not face overcrowding issues. This is in contrast to the residences run by the SBS, which do face overcrowding, as they are obliged to admit all children and adolescents in need of protection,

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<sup>783</sup> Secretariat of Social Welfare of the Presidency of the Republic, Guatemala, [Protection](#), 2024.

<sup>784</sup> National Adoption Council, Government of Guatemala, [Program for the Authorization and Supervision of Protection and Shelter Homes for Children and International Organizations](#), [Protection and Shelter Homes](#), 2024; and Congress of the Republic, Government of Guatemala, [Adoption Law, Decree No. 77-2007](#), 2007, Article 17.

<sup>785</sup> Information provided to the IACHR during a meeting with staff from the Undersecretariat for Protection of the Secretariat for Social Welfare held during the visit to the Diamante 1 residence as part of the on-site visit, July 25, 2024.

<sup>786</sup> Presidential Commission on Peace and Human Rights, Guatemala, Supplementary and updated information on the on-site visit conducted in July 2024, March 10, 2025, on file with the IACHR, p. 47.

even when they have exceeded their maximum capacity and lack the resources to care for them.<sup>787</sup>

#### *i. Population in SBS protection residences*

403. As indicated, the SBS Undersecretary of Protection is in charge of protection and shelter residences for various groups of children and adolescents who require special protection. These include victims of forced recruitment by gangs; those in situations of human mobility; victims of abuse, sexual violence, and human trafficking; children and adolescents with substance abuse problems; and those with disabilities and in vulnerable situations.<sup>788</sup> Since 2017, profiles have been separated according to the violation of rights so that children and adolescents are sent to different homes or residences according to their needs.<sup>789</sup>
404. The IACtHR appreciates that, in Guatemala, the forced recruitment of children and adolescents is criminally classified as a form of human trafficking.<sup>790</sup> This allows those recruited by organized crime to be recognized as victims of gangs or maras, which facilitates their access to protective measures such as accommodation in care residences, instead of being criminalized by the juvenile justice system and sent to juvenile detention centers. Thus, as part of its functions, the SBS Undersecretary for Protection assists adolescents who flee organized crime or wish to disassociate themselves from these groups, as well as those who are still active. Therefore, in order

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<sup>787</sup> Information provided to the IACtHR during meetings with staff of the Undersecretary for Protection of the Secretariat of Social Welfare held during the on-site visit, July 25, 2024. See also the section: "Conditions in protection residences."

<sup>788</sup> Information provided to the IACtHR during meetings with staff of the Undersecretary for Protection of the Secretariat for Social Welfare held during the on-site visit, July 24 and 25, 2024.

<sup>789</sup> Information provided to the IACtHR during a meeting with staff of the Undersecretary for Protection of the Secretariat of Social Welfare held during the visit to the Zafiro 1 shelter as part of the on-site visit, July 24, 2024.

<sup>790</sup> Congress of the Republic, Government of Guatemala, [Penal Code of Guatemala, Decree No. 17-73](#), 1973, Article 202 ter.

to avoid conflicts and situations of violence in the residences, positive communication and respect are encouraged, and mentioning affiliations with criminal groups is prohibited.<sup>791</sup> During its visit, the IACHR was able to observe firsthand that, thanks to these efforts, coexistence is good and peaceful.<sup>792</sup>

405. For children and adolescents in situations of human mobility, the SBS has two shelters located in Guatemala City and Quetzaltenango. The first takes in those who are returned by air, and the second takes in those who are returned by land. Although these shelters are designed for stays of up to 72 hours, in practice, children and adolescents stay longer for protection reasons. In 2023, they cared for nearly 3,900 children and adolescents in these spaces.<sup>793</sup>

#### *ii. Institutionalization for protection*

406. The Commission is concerned about the lack of adequate protocols for the care of children and adolescents in shelters and residences, as well as for addressing cases of substance use and treatment. In this regard, the IACHR was informed about the excessive workload of the staff at the SBS residences, which makes it difficult to develop comprehensive protocols. In practice, their main focus is on providing emotional support and direct care to children and adolescents, prioritizing their immediate needs over the structuring of formal procedures, for which they put their knowledge and specialized

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<sup>791</sup> Information provided to the IACHR during a meeting with staff from the Undersecretary of Protection of the Secretariat of Social Welfare held during the visit to the Diamante 1 residence as part of the on-site visit, July 25, 2024.

<sup>792</sup> Observation by the IACHR during its visits to the Diamante 1 and Zafiro 1 residences as part of the on-site visit, July 24 and 25, 2024.

<sup>793</sup> Information provided to the IACHR during meetings with staff of the Undersecretary for Protection of the Secretariat for Social Welfare held during the on-site visit on July 24, 2024.

experience in the field into practice.<sup>794</sup> On this point, while the IACHR appreciates the efforts of the staff at the residences, it is unfortunate that the eventual change of authorities and technical personnel may result in the loss of valuable experience and knowledge for the care of this population.

407. With regard to substance use, the IACHR was informed that court orders often stipulate that adolescents must stop using these substances within a certain period of time, usually six months. However, these decisions do not take into account that some adolescents require treatment for the use of strong substances that take months to eliminate from the body, which complicates their treatment and could exceed these time limits. This situation is aggravated by the lack of access to toxicology reports, as these are kept confidential by the judicial authorities, as explained above. Similarly, the Commission observes that this lack of access to toxicology reports has led to the institutionalization of children and adolescents for alleged problematic substance use without medical certification to support it, who, upon entering the residences, state that they do not use the substances attributed to them.<sup>795</sup>

408. In addition, the IACHR notes the prevalence of institutionalization of children due to poverty<sup>796</sup>, despite the fact that the Comprehensive Protection Law establishes that lack of resources does not justify the loss or suspension of parental rights and that, in the absence of other reasons, children should remain in their family of origin.<sup>797</sup>

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<sup>794</sup> Information provided to the IACHR during a meeting with staff of the Undersecretary for Protection of the Secretariat for Social Welfare held during the visit to the Zafiro 1 residence as part of the on-site visit, July 24, 2024.

<sup>795</sup> Information provided to the IACHR during meetings with staff of the Undersecretary for Protection of the Secretariat for Social Welfare held during the on-site visit, July 24 and 25, 2024.

<sup>796</sup> Information provided to the IACHR during a meeting with staff of the Undersecretary for Protection of the Secretariat for Social Welfare held during the visit to the Diamante 1 residence as part of the on-site visit, July 25, 2024.

<sup>797</sup> Congress of the Republic, Guatemala, [Decree 27-2003 Law on the Protection of Children and Adolescents](#), 2003, Article 21.

Similarly, it recalls that both the Inter-American Court of Human Rights and this Commission have established that poverty alone cannot be the cause of family separation.<sup>798</sup>

### ***iii. Conditions in shelters***

409. Despite the resource constraints faced by the SBS, which are reflected in the protection and shelter residences, the IACtHR recognizes the efforts of the staff of the Undersecretariat for Protection to care for children and adolescents in need of protection, especially victims of various forms of violence, including survivors of sexual exploitation, human trafficking, and recruitment by gangs or maras.<sup>799</sup>
410. In this regard, it welcomes the move, in October 2021, of the Zafiro 1 shelter for boys and adolescents affiliated with gangs, with substance abuse problems, or living on the streets, to a larger space with better building conditions than the previous one.<sup>800</sup> During its on-site visit, the IACtHR had the opportunity to verify this.
411. However, there are concerns about the challenges faced by the residences due to a lack of resources, which is reflected in a shortage of places. In particular, the Commission was informed that most of the shelters and safe houses run by the SBS are overcrowded, mainly due to the increase in the forced recruitment of children by organized crime and the lack of resources to respond to this situation, which has an impact on the general conditions of accommodation.<sup>801</sup>

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<sup>798</sup> IACtHR, [The Right of Children to a Family](#), OEA/Ser.L/V/II. Doc. 54/13, October 17, 2013, para. 96; and Inter-American Court of Human Rights, Legal Status and Human Rights of the Child, Advisory Opinion OC-17/02 of August 28, 2002, Series A No. 17, para. 76.

<sup>799</sup> This recognition is based on the findings of the IACtHR during its visits to the residence for girls who are victims of sexual violence and trafficking, the Zafiro 1 residence, and the Diamante 1 residence, as part of its on-site visit to Guatemala on July 24 and 25, 2024.

<sup>800</sup> Secretariat of Social Welfare of the Presidency of the Republic, Government of Guatemala, [Zafiro 1 Residence moves to a house with spacious and dignified rooms](#), October 5, 2021.

<sup>801</sup> Information provided to the IACtHR during meetings with staff of the Undersecretariat for Protection of the Secretariat of Social Welfare held during the on-site visit, July 24 and 25, 2024.

412. Specifically, during its on-site visit, the IACHR observed firsthand: (i) overcrowding; (ii) deficiencies in basic furnishings, such as a shortage of beds and mattresses; (iii) a lack of medicines, especially IV fluids, which are essential when receiving adolescents with substance abuse problems; and (iv) insufficient hygiene items, clothing, and school supplies. This lack of supplies also affects caregivers, who often lack beds or mattresses as well. Given this situation, in many cases, it is the officials themselves who use their salaries to purchase the necessary supplies and make up for these shortcomings.<sup>802</sup>

413. For example, during its visit to the Zafiro 1 residence, the IACHR found that some adolescents have to share beds or sleep on the floor due to overcrowding. However, even if more beds were available, there would be no space to place them, as the only free area is the multipurpose room, which must be kept clear for recreational activities.<sup>803</sup> In this regard, the adolescents told the Commission that they prefer to share or sleep on the floor rather than lose the multipurpose room.<sup>804</sup> In addition, the evident lack of security personnel in the residences for girls who are victims of sexual violence and trafficking is alarming, as it may increase the risk of re-recruitment or reprisals against them.<sup>805</sup>

414. Despite the challenges identified, the IACHR values the commitment of the SBS staff and the educators interviewed by this Commission during its on-site visit, who, in their role, attempt to restore the violated

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<sup>802</sup> Information provided to the IACHR during a meeting with staff from the Undersecretary for Protection of the Secretariat for Social Welfare held during the visit to the Diamante 1 residence as part of the on-site visit, July 25, 2024.

<sup>803</sup> Information provided to the IACHR during a meeting with staff of the Undersecretary for Protection of the Secretariat of Social Welfare held during the visit to the Zafiro 1 residence as part of the on-site visit, July 24, 2024.

<sup>804</sup> Testimonies from adolescents received by the IACHR during the visit to the Zafiro 1 residence as part of the on-site visit, July 24, 2024.

<sup>805</sup> Observation by the IACHR during its visit to the residence for girls who are victims of sexual violence and trafficking and information provided to the IACHR during a meeting with staff from the Undersecretary for Protection of the SBS held during the on-site visit, Guatemala, July 24, 2024.

rights of children and adolescents housed in protective residences with the limited resources available, by reinforcing positive values. Conversations with both staff and the children and adolescents themselves reflect the fundamental role they play based on care, respect, love, and the creation of a healthy environment, which strengthens emotional bonds with the adolescents. The testimonies of the adolescents to the IACtHR show that they perceive the educators as parental figures, even calling them "mamitas" (moms).<sup>806</sup> The testimonies of adolescents affiliated with gangs reveal that they find the shelter to be a safe space where they prefer to remain, even if it means living with members of rival criminal groups.<sup>807</sup>

415. The IACtHR recalls that the physical space and size of institutions must be designed to guarantee conditions of protection, safety, health, and privacy compatible with the protection of children's rights, in addition to allowing them to exercise their rights and engage in activities appropriate for their age. Strict compliance with these standards must be a central criterion for States to grant authorization to these institutions, as well as in the context of subsequent inspections.<sup>808</sup> Likewise, those responsible for the care of children and adolescents must have the necessary resources and access to relevant services, thus avoiding any form of neglect or negligent treatment.<sup>809</sup>

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<sup>806</sup> Testimony of adolescents received by the IACtHR during its visit to the Diamante 1 residence as part of the on-site visit, July 24, 2024.

<sup>807</sup> Testimony of adolescents received by the IACtHR during its visit to the Zafiro 1 residence as part of its on-site visit, July 25, 2024.

<sup>808</sup> IACtHR, [Right of Children to a Family](#), OEA/Ser.L/V/II. Doc. 54/13, October 17, 2013, recommendation 8.f.

<sup>809</sup> IACtHR, [Right of Children to a Family](#), OEA/Ser.L/V/II. Doc. 54/13, October 17, 2013, paras. 471 and 472.

**d) Obstacles to deinstitutionalization**

416. With regard to the deinstitutionalization of children and adolescents, the IACHR was informed that this process is carried out mainly through: (i) family reunification; (ii) placement with their extended family; (iii) adoption after a declaration of adoptability; and (iv) upon reaching the age of 18.<sup>810</sup> On this point, the Commission shares and endorses the observations of the United Nations Committee on the Rights of the Child regarding the insufficient legislative and policy framework for deinstitutionalization, as well as the lack of coordination in the interventions of public institutions in this area.<sup>811</sup>

417. In this regard, the State reported that in 2024, the protection and shelter measures for 923 children and adolescents were revoked, while in 2023, the measures for 967 had been revoked.<sup>812</sup> During its on-site visit, the IACHR was informed of the efforts of the SBS Undersecretary for Protection to strengthen deinstitutionalization through: (i) a foster care program; (ii) the strengthening of substitute families, with financial subsidies and professional support; and (iii) the strengthening of family reunification, provided that this does not undermine the protection of the child in question.<sup>813</sup>

418. Specifically, SBS staff highlighted that they are implementing a case management methodology in which each situation is analyzed

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<sup>810</sup> Information provided to the IACHR during a meeting with staff from the Undersecretary for Protection of the Secretariat for Social Welfare held during the visit to the residence for girls who are victims of sexual violence and trafficking as part of the on-site visit, July 24, 2024. See also: Supreme Court of Justice, [Agreement No. 40-2010 Regulations for the Application of Protective Measures for Children Removed from Their Family Environment by Courts with Jurisdiction over Children and Adolescents Whose Human Rights Are Threatened or Violated](#), article 11.

<sup>811</sup> Committee on the Rights of the Child, [Concluding observations on the seventh periodic report of Guatemala](#), CRC/C/GTM/CO/7, May 30, 2024, para. 30.

<sup>812</sup> Presidential Commission on Peace and Human Rights, Guatemala, Supplementary and updated information on the on-site visit conducted in July 2024, March 10, 2025, on file with the IACHR, p. 48.

<sup>813</sup> Information provided to the IACHR during a meeting with staff of the Undersecretariat for Protection of the Secretariat of Social Welfare in the context of the on-site visit, July 24, 2024.

individually to determine whether family reunification is feasible. This strategy includes training for parents and families aimed at strengthening their parenting skills. At the same time, children and adolescents receive training in independent living programs, with the aim of facilitating their transition to economic autonomy when they leave the protection system.<sup>814</sup> With regard to reintegration into society, the SBS acknowledged to the IACtHR that cases are not currently monitored after family reunification due to a lack of resources. However, they are developing mechanisms and a protection protocol to ensure systematic monitoring.<sup>815</sup>

419. Despite these efforts, the IACtHR was informed that the total number of institutionalized children has not been reduced because more and more children and adolescents are constantly entering the system as a result of increased recruitment by organized crime. In addition, in some cases, children and adolescents who had already returned to their families are being institutionalized again.<sup>816</sup> In addition, social challenges persist, such as rejection and stigmatization of deinstitutionalized children and adolescents, which can lead them to rejoin gangs when they turn 18.<sup>817</sup>
420. In view of the above, the Commission stresses the importance of monitoring family reintegration and evaluating the impact of training for families to ensure an adequate and safe environment. In addition, it is essential to supervise independent living programs to verify that

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<sup>814</sup> Information provided to the IACtHR during a meeting with staff of the Undersecretariat for Protection of the Secretariat for Social Welfare held during the visit to the residence for girls who are victims of sexual violence and trafficking as part of the on-site visit, July 24, 2024 .

<sup>815</sup> Information provided to the IACtHR during meetings with staff of the Undersecretary for Protection of the SBS held during the on-site visit, July 24 and 25, 2024.

<sup>816</sup> Information provided to the IACtHR during a meeting with staff of the Undersecretary for Protection of the Secretariat for Social Welfare held during the visit to the Diamante 1 residence as part of the on-site visit, July 25, 2024.

<sup>817</sup> Information provided to the IACtHR during a meeting with staff of the Undersecretary for Protection of the Secretariat for Social Welfare held during the visit to the residence for girls who are victims of sexual violence and trafficking as part of the on-site visit, July 24, 2024.

children and adolescents who have left the system have the tools to achieve economic and social autonomy, reducing the risk of exclusion or vulnerability. In particular, it is the obligation of States to establish services that facilitate the social reintegration of those who were institutionalized, promoting programs that combat the discrimination and stigmatization faced by this population.<sup>818</sup>

#### **4. Follow-up on the case of "Hogar Seguro Virgen de Asunción"**

421. Through Resolution No. 8/17 of March 12, 2017, the Commission granted Precautionary Measure 958-16 in the case of the "Hogar Seguro Virgen de Asunción," in which 41 girls and adolescents died in a fire in the room where they were locked up in retaliation for an escape attempt. In this context, the IACtHR requested that the State, among other things, protect the lives and integrity of those affected and report on the actions taken to investigate the events and prevent their recurrence.<sup>819</sup>

422. In January 2024, the trial began against eight former public officials accused of abuse of authority, breach of duty, manslaughter, negligent injury, and mistreatment of minors, after 11 postponements since 2017. In this regard, the IACtHR shares and endorses the May 2024 call by the United Nations Committee on the Rights of the Child, which urged the State to conclude without delay the trials against those responsible for the rights violations that occurred in the case, to continue to adequately compensate the victims, and to adopt preventive measures to avoid similar incidents.<sup>820</sup>

423. On the other hand, the Commission notes that, at present, the SBS manages a subdirectorate called "Hogar Seguro Virgen de Asunción" (Virgin of Asunción Safe Home), which administers 14 residences for girls and adolescents in need of protection, originally

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<sup>818</sup> IACtHR, [The Right of Children to a Family](#), OEA/Ser.L/V/II. Doc. 54/13, October 17, 2013, para. 553.

<sup>819</sup> IACtHR, [Resolution 8/17, MC No. 958-16 "Hogar Seguro Virgen de la Asunción."](#) Guatemala.

<sup>820</sup> Committee on the Rights of the Child, [Concluding observations on the seventh periodic report of Guatemala](#), CRCC/GTMCO/7, May 30, 2024, para. 24.

intended for the survivors of the fire.<sup>821</sup> These residences are located in Guatemala City and Quetzaltenango. Notwithstanding this, civil society noted that the survivors (now of legal age) are not receiving state support.<sup>822</sup> Although they are entitled to a pension, this is not sufficient to meet their needs resulting from the tragedy, considering that they also come from impoverished families with limited opportunities for development.<sup>823</sup>

## **E. Women**

**424.** In this section, the Commission analyzes the situation of women's rights in Guatemala, with an emphasis on patterns of gender-based violence, regulatory and institutional frameworks for protection, access to justice and persistent impunity, as well as the effective enjoyment of sexual and reproductive rights. It also addresses the particular situation of indigenous women, who face multiple forms of intersectional discrimination that exacerbate their exclusion and vulnerability.

### **1. Violence**

**425.** During the on-site visit, the IACtHR heard repeatedly that violence against women, girls, and adolescents remains at alarming levels, that it is the most prevalent form of violence in Guatemala, and that it is characterized by high levels of underreporting and impunity.<sup>824</sup> This is exacerbated by the intersection with other factors of vulnerability such as age, ethnic-racial origin, socioeconomic status,

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<sup>821</sup> Information provided to the IACtHR during a meeting with staff from the Undersecretariat for Protection of the Secretariat for Social Welfare held during the visit to the residence for girls who are victims of sexual violence and trafficking as part of the on-site visit, July 24, 2024.

<sup>822</sup> Congress of the Republic, Guatemala, [Decree No. 16-2018](#), September 20, 2018.

<sup>823</sup> International Center for Human Rights Research, IACtHR Report July 2024, on file with the IACtHR, July 2024, pp. 3 and 4.

<sup>824</sup> IACtHR, [Preliminary Observations from the On-Site Visit to Guatemala](#), approved on August 15, 2024, paras. 49 and 66.

location, sexual orientation, gender identity, or gender expression.<sup>825</sup> According to the National Survey on Household Quality and Well-being (ENCABIH), 49 out of every 100 women over the age of 15 who were interviewed have suffered some type of violence in their lives, with sexual violence being the most prevalent.<sup>826</sup>

426. During its on-site visit, the IACHR received extensive information on the high incidence of violent deaths of women, femicides, disappearances, and sexual violence, especially against girls and adolescents.<sup>827</sup> However, it notes that there is no unified system of data collection with disaggregation, on types of violence against women, girls, and adolescents and demographic indicators of perpetration that would allow for an accurate assessment of the scope of the problem.<sup>828</sup> On this point, it was reported that there is no quality public data, or disaggregated data, on sexual violence and the disappearance of girls and adolescents, or its relationship to other crimes, such as human trafficking.<sup>829</sup> This, combined with a lack of coordination between the authorities involved and deficiencies in the investigation and classification of crimes, has

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<sup>825</sup> IACHR, [Preliminary Observations from the On-Site Visit to Guatemala](#), approved on August 15, 2024, para. 65

<sup>826</sup> National Institute of Statistics, [Main Results. National Survey on Household Quality and Well-being \(ENCABIH\)](#), Guatemala 2024, pp. 11 and 21.

<sup>827</sup> Similar concerns were expressed by the CEDAW Committee in its [Concluding Observations on the tenth periodic report of Guatemala](#), CEDAW/C/GTMCO/10, June 14, 2024, p. 24 a).

<sup>828</sup> CLADEM Guatemala, et.al., Input on: Women and the right to live free from violence, on the occasion of the visit of the Inter-American Commission on Human Rights (IACHR) to Guatemala, July 22, 2024, on file with the IACHR, p. 9; Information received at a meeting of the IACHR Technical Secretariat with civil society organizations, held on November 28, 2024, as part of the technical follow-up visit to the preliminary observations of the on-site visit.

<sup>829</sup> Meeting of the IACHR with CSOs on DESCA rights, children, older persons, and persons with disabilities, held on July 25, 2024, in the context of the on-site visit; CLADEM Guatemala, et. al., Input on: Women and the right to live free from violence, on the occasion of the visit of the Inter-American Commission on Human Rights (IACHR) to Guatemala, July 22, 2024, in the IACHR archives, p. 4.

resulted in significant discrepancies between the figures reported by various institutions and those recorded by civil society.<sup>830</sup>

427. According to available information, between 2018 and 2023, there were 3,565 cases of violent deaths of women, of which at least 45% were classified as femicides. Most were committed in the private sphere, with the leading cause of death being the use of firearms, followed by knives and asphyxiation by strangulation and hanging. The departments with the highest incidence are Guatemala, Santa Rosa, Petén, and Escuintla.<sup>831</sup> In 2023 alone, the MP's Women's Observatory recorded 264 violent deaths of women, of which 205 were considered femicides<sup>832</sup>, while civil society recorded 297 femicides and 498 violent deaths of women in total.<sup>833</sup> In the first half of 2024, 206 violent deaths of women were recorded, of which 90 were classified as femicides.<sup>834</sup>

428. With regard to the disappearances of women, girls, and adolescents, since the Isabel-Claudina Alert system came into force in 2018 and

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<sup>830</sup> Meeting of the IACtHR with CSOs on DESCA rights, children, older persons, and persons with disabilities, held on July 25, 2024, as part of the on-site visit; CLADEM Guatemala, et. al., Input on: Women and the right to live free from violence, on the occasion of the visit of the Inter-American Commission on Human Rights (IACtHR) to Guatemala, July 22, 2024, in the IACtHR archives, p. 4; Information received at a meeting of the IACtHR Technical Secretariat with civil society organizations, held on November 28, 2024, as part of the technical follow-up visit to the preliminary observations of the on-site visit; Human Rights Watch, ["Forced to Give Up Their Dreams" Sexual Violence Against Girls in Guatemala](#), February 2025, p. 20.

<sup>831</sup> CLADEM Guatemala, et. al., Input on: Women and the right to live free from violence, on the occasion of the visit of the Inter-American Commission on Human Rights (IACtHR) to Guatemala, July 22, 2024, in the IACtHR archives, p. 4.

<sup>832</sup> OHCHR Guatemala, [Human rights situation in Guatemala during 2023. Report of the United Nations High Commissioner for Human Rights](#), A/HRC/55/21, February 6, 2024, p. 12.

<sup>833</sup> Center for Legal Action on Human Rights, et.al., Ref. Submission of information on the human rights situation in Guatemala in the context of the on-site visit, June 11, 2024, on file with the IACtHR, p. 16.

<sup>834</sup> Guatemalan Women's Group (GGM), Advances and challenges in preventing violence against women and strengthening Comprehensive Support Centers for Women Survivors of Violence, July 25, 2024, on file with the IACtHR, pp. 4-6.

until December 2021, 5,483 women over the age of 18 have been reported missing.<sup>835</sup> According to information from civil society, an average of five Isabel-Claudina<sup>836</sup> alerts are activated per day; in 2023 alone, 1,889 alerts were activated. They also pointed out that there has been an increase in intermittent disappearances—in which a woman is known to have disappeared more than once—related to acts of gender-based violence.<sup>837</sup> Although most women with disappearance alerts are located, civil society estimates show that at least 1 in 5 is a victim of femicide.<sup>838</sup> On the other hand, data from the Alba-Kenneth Alert System<sup>839</sup> warn that more than 60% of minors reported missing are girls and female adolescents between the ages of 13 and 17.<sup>840</sup>

429. The levels of sexual violence against women, especially against girls and adolescents, are alarming. According to a report by the National Statistics Institute (INE), in the period 2019-2023, the MP registered 30,414 women who were victims of rape or aggravated rape (not

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<sup>835</sup> IACtHR, [Northern Central America. Impact of organized crime on women, girls, and adolescents](#), February 17, 2023, para. 46.

<sup>836</sup> The Isabel-Claudina Alert is an inter-institutional mechanism for the search and location of women reported missing. It was established in 2016 by the Congress of the Republic through Decree 09/2016, with the Immediate Search for Missing Women Act.

<sup>837</sup> Center for Legal Action on Human Rights, et. al., Ref. Submission of information on the human rights situation in Guatemala in the context of the on-site visit, June 11, 2024, on file with the IACtHR, p. 16.

<sup>838</sup> Information received at a meeting of the IACtHR Technical Secretariat with civil society organizations, held on November 28, 2024, in the context of the technical follow-up visit to the preliminary observations of the on-site visit.

<sup>839</sup> The Alba-Kenneth Alert System is aimed at the search and location of children and adolescents reported missing or abducted. It was created in 2010 through the urgent national approval of Decree 28-2010 by the Congress of the Republic.

<sup>840</sup> IACtHR, [Northern Central America. Impact of organized crime on women, girls, and adolescents](#), February 17, 2023, para. 46.

counting other sexual crimes)<sup>841</sup>, while the PNC registered 1,781 women who were victims of rape or sexual assault.<sup>842</sup> For its part, during the same period, INACIF conducted 34,809 evaluations of women for sexual crimes, of which 60% corresponded to girls and adolescents between the ages of 10 and 19.<sup>843</sup> According to civil society reports, there is a high rate of sexual violence against girls and adolescents in educational centers by classmates and teaching staff.<sup>844</sup> In addition, they indicated that indigenous girls with disabilities face a higher risk of sexual violence.<sup>845</sup> Similarly, this type of violence is frequent in the family or between partners, as the idea that girls and adolescents can consent to relationships with older men has become normalized.<sup>846</sup>

430. The Commission recalls the importance of having complete, reliable, and disaggregated information in order to understand the ways in which violence affects women and to be able to formulate effective public policies aimed at prevention and improving the judicial response in these cases.<sup>847</sup> In this regard, it urges the State to

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<sup>841</sup> National Institute of Statistics, [Statistics on Violence Against Women and Sexual Violence 2023](#), July 2024, p. 15.

<sup>842</sup> National Institute of Statistics, [Statistics on Violence Against Women and Sexual Violence 2023](#), July 2024, p. 109.

<sup>843</sup> National Institute of Statistics, [Statistics on Violence Against Women and Sexual Violence 2023](#), July 2024, pp. 37 and 39.

<sup>844</sup> Meeting of the IACHR with representatives of organizations and communities, held on July 23, 2024, as part of the on-site visit; Meeting of the IACHR with CSOs on DESCA rights, children, older persons, and persons with disabilities, held on July 25, 2024, as part of the on-site visit.

<sup>845</sup> Meeting of the IACHR with CSOs on the situation of indigenous peoples and Afro-descendants, held on July 22, 2024, as part of the on-site visit.

<sup>846</sup> Meeting between the IACHR and authorities from the Ministry of the Interior and the departments of Quetzaltenango, held on July 24, 2024, as part of the on-site visit; Meeting between the IACHR and CSOs on DESCA rights, children, older persons, and persons with disabilities, held on July 25, 2024, as part of the on-site visit.

<sup>847</sup> IACHR, [Violence and Discrimination against Women, Girls, and Adolescents](#), November 14, 2019, para. 146.

establish mechanisms for producing, compiling, and analyzing disaggregated data on violence against women, including sexual violence, trafficking, and disappearances of girls and adolescents, in order to understand its scope and impact and thereby to guide the development of targeted public policies in response.

## **2. Regulatory and institutional framework for the protection of women's rights**

**431.** As in its previous country report<sup>848</sup>, the Commission recognizes the regulatory framework<sup>849</sup> and institutional framework<sup>850</sup> for protection and specialized justice for women in the country, and values the institutional strengthening efforts made by the State in recent years. In this regard, the Judiciary (OJ) increased the number of Criminal Courts of First Instance and Criminal Sentencing Courts with specialized jurisdiction to hear cases of femicide and other forms of violence against women.<sup>851</sup> Within the Public Prosecutor's Office (MP), in addition to the Women's Prosecutor's Office, there are specialized prosecuting agencies and Prosecutor's Offices for the Crime of Femicide. In addition, the national coverage of the Victim Assistance Offices (OAVs), located in the police stations of the National Civil

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<sup>848</sup> IACtHR, [Situation of Human Rights in Guatemala](#), December 31, 2017, paras. 95 and 358.

<sup>849</sup> Namely: 1) Law to Prevent, Punish, and Eradicate Domestic Violence (1996); 2) Law against Femicide and Other Forms of Violence against Women (2008); 3) Law against Sexual Violence, Exploitation, and Trafficking in Persons (2009); and 4) Law on the Immediate Search for Missing Women (2016).

<sup>850</sup> The following institutions were highlighted as promoting and defending women's rights: i) the General Secretariat for Women (SEPREM); ii) the National Coordinator for the Prevention of Domestic Violence and Violence against Women (CONAPREVI); and iii) the Office of the Ombudsman for Indigenous Women (DEMI). Specialized justice institutions included: iv) the Women's Prosecutor's Office; v) the Court of First Instance for Femicide Crimes; vi) the Comprehensive Model for Responding to Violence Against Women; and vii) the Comprehensive Support Centers for Women Survivors of Violence (CAIMUS).

<sup>851</sup> Government of the Republic of Guatemala, Supplementary and updated information on the on-site visit of the Inter-American Commission on Human Rights to Guatemala, carried out during the month of July 2024. Ref. DIDEH-DEPCADEH-16-2025/DADN/ac, February 17, 2025, Annex 2, p. 4.

Police (PNC), has been expanded<sup>852</sup>; the Comprehensive Care Model for Women Victims of Violence (MAIMI) was adopted<sup>853</sup>; and a comprehensive care and inter-institutional coordination model is being developed with CAIMUS and other agencies to facilitate access to protection measures for victims of violence.<sup>854</sup>

432. Likewise, strengthening actions have included the implementation of protocols and numerous training processes for staff specialization. In this regard, the OJ has specialized training programs and mandatory periodic training plans for staff involved in handling cases of femicide, violence against women, and sexual violence.<sup>855</sup> For its part, in addition to training processes, the MP has also adopted various internal guidelines for addressing crimes of violence against women and sexual violence, aimed at both prosecutorial and technical and support staff.<sup>856</sup> Among these, the following stand out: (i) the Policy on Access of Indigenous Peoples to the Public Prosecutor's Office 2017-2025<sup>857</sup>; (ii) the Protocol for Culturally and Linguistically Appropriate Care for Indigenous Women who come to the Public Prosecutor's Office; (iii) the General Instruction for Mainstreaming Gender and Equality in Criminal Prosecution; (iv) the Protocol for

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<sup>852</sup> Government of the Republic of Guatemala, Supplementary and updated information on the on-site visit of the Inter-American Commission on Human Rights to Guatemala, carried out during the month of July 2024. Ref. DIDEH-DEPCADEH-21-2025/DADN/ac, March 10, 2025, p. 28.

<sup>853</sup> IACtHR, [Annual Report 2021, Chapter IV.B](#), para. 218

<sup>854</sup> Government of the Republic of Guatemala, Supplementary and updated information on the on-site visit of the Inter-American Commission on Human Rights to Guatemala, carried out during the month of July 2024. Ref. DIDEH-DEPCADEH-21-2025/DADN/ac, March 10, 2025, p. 28.

<sup>855</sup> Government of the Republic of Guatemala, Supplementary and updated information on the on-site visit of the Inter-American Commission on Human Rights to Guatemala, carried out during the month of July 2024. Ref. DIDEH-DEPCADEH-16-2025/DADN/ac, February 17, 2025, Annex 2, pp. 1-2, 5.

<sup>856</sup> Government of the Republic of Guatemala, Supplementary and updated information on the on-site visit of the Inter-American Commission on Human Rights to Guatemala, carried out during the month of July 2024. Ref. DIDEH-DEPCADEH-16-2025/DADN/ac, February 17, 2025, Annex 3, pp. 4-5.

<sup>857</sup> CEDAW Committee, [Concluding observations on the tenth periodic report of Guatemala](#), CEDAW/C/GTM/CO/10, June 14, 2024, para. 5 b).

Investigating Crimes of Gender-Based Violence against Women in the Public and Private Spheres.<sup>858</sup> In addition, the Secretariat against Sexual Violence, Exploitation, and Trafficking in Persons (SVET) has conducted training programs on the prevention, care, justice, and redress of sexual violence, aimed at the education and health sectors, public administration institutions, and civil society.<sup>859</sup>

433. Similarly, important public policies have been adopted to prevent violence, improve access to justice, and promote equality for women. Among these, the following stand out: (i) the National Plan for the Prevention of Violence against Women (PLANOVI) 2020-2029, designed to comply with national and international commitments regarding women's right to live a life free of violence; ii) the National Policy for the Prevention of Violence and Crime, Citizen Security, and Peaceful Coexistence 2014-2034, which seeks to reduce violence through coordinated strategies; and iii) the Public Policy against Sexual Violence 2019-2029, focused on prevention, comprehensive care for victims, and access to justice.<sup>860</sup> Other current policies and plans include the National Policy for the Promotion and Comprehensive Development of Women (PNPDIM); the Equal Opportunities Plan (PEO) 2008-2023; and the National Action Plan for United Nations Security Council Resolution 1325 (2000) on Women, Peace, and Security.<sup>861</sup>

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<sup>858</sup> Government of the Republic of Guatemala, Supplementary and updated information to the on-site visit of the Inter-American Commission on Human Rights to Guatemala, carried out during the month of July 2024. Ref. DIDEH-DEPCADEH-16-2025/DADN/ac, February 17, 2025, Annex 3, pp. 4-5.

<sup>859</sup> Government of the Republic of Guatemala, Supplementary and updated information on the on-site visit of the Inter-American Commission on Human Rights to Guatemala, carried out during the month of July 2024. Ref. DIDEH-DEPCADEH-21-2025/DADN/ac, March 10, 2025, pp. 31-34.

<sup>860</sup> Government of the Republic of Guatemala, Supplementary and updated information on the on-site visit of the Inter-American Commission on Human Rights to Guatemala, carried out during the month of July 2024. Ref. DIDEH-DEPCADEH-21-2025/DADN/ac, March 10, 2025, p. 27.

<sup>861</sup> Guatemalan Women's Group – GGM, Advances and challenges in preventing violence against women and strengthening Comprehensive Support Centers for Women Survivors of Violence, July 25, 2024, on file with the IACtHR, pp. 2-3; CEDAW Committee, [Concluding observations on the tenth periodic report of Guatemala](#), CEDAW/C/GTM/CO/10, June 14, 2024, para. 5 d).

434. Despite these efforts, the Commission notes that there are significant challenges in terms of prevention, protection, and access to justice in cases of violence against women, which are related to the weakness and shortcomings in the implementation of the regulatory, institutional, and public policy framework identified above. With regard to the regulatory framework, various sources highlighted the need to update and incorporate sufficient legislation to adequately respond to the problem of violence, particularly sexual violence against girls and adolescents. Specifically, it is necessary to integrate modern prevention measures and victim support services into the comprehensive law on human trafficking<sup>862</sup>; incorporate the concept of consent and not the use of force as a central element in the classification of sexual crimes in all cases; approve legislation—such as the Angelina Bill—to improve protection and access to justice and reparation for girls and adolescents who are victims of rape<sup>863</sup>; and criminalize sexual harassment, obstetric violence, and violence against women in political life.<sup>864</sup> On the other hand, concern was expressed about the lack of re-education or reintegration programs for men who commit acts of violence—particularly sexual offenders—as well as the absence of violence prevention strategies that engage men in general.

435. With regard to the institutional framework, the IACtHR has observed the weakening of institutions and mechanisms for the promotion,

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<sup>862</sup> CEDAW Committee, [Concluding observations on the tenth periodic report of Guatemala](#), CEDAW/C/GTM/CO/10, June 14, 2024, para. 26 c).

<sup>863</sup> Information received at a meeting of the Technical Secretariat of the IACtHR with civil society organizations, held on November 28, 2024, as part of the technical follow-up visit to the preliminary observations of the on-site visit carried out from July 22 to 26, 2024; Meeting of the IACtHR with CSOs on DESCA rights, children, older persons, and persons with disabilities, held on July 25, 2024, as part of the on-site visit.

<sup>864</sup> CLADEM Guatemala, et.al., Input on: Women and the right to live free from violence, on the occasion of the visit of the Inter-American Commission on Human Rights (IACtHR) to Guatemala, July 22, 2024, in the IACtHR archives, p. 8.

protection, and specialized justice for women.<sup>865</sup> The lack of coordination among authorities, limitations on autonomy and capacity to act, insufficient budget allocations, and limited territorial coverage severely limit the ability of some institutions to fulfill their mandates.<sup>866</sup> In particular, SEPREM needs a significant increase in its current budget in order to function properly and have a nationwide presence.<sup>867</sup> In addition, it is known that, at least since 2020<sup>868</sup>, Bill 4977, which proposes to elevate SEPREM to a Ministry of Women, has been under discussion in the Congress of the Republic, but has not yet been approved.

436. Similarly, the resources, autonomy, and capacity for action of CONAPREVI—the main body governing public policies on violence against women—have been diminished. Government Agreement 257-2023 eliminated its specific budget allocation, meaning that CONAPREVI no longer has its own resources to operate, but instead

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<sup>865</sup> IACHR, [Preliminary Observations of the On-Site Visit to Guatemala](#), approved on August 15, 2024; IACHR, [Annual Report 2021, Chapter IV.B](#), para. 217; IACHR, Annual Report 2020, Chapter IV.A, para. 445.

<sup>866</sup> CEDAW Committee, [Concluding Observations on the Tenth Periodic Report of Guatemala](#), CEDAW/C/GTMCO/10, June 14, 2024, para. 18; Center for Legal Action on Human Rights, et al., Ref. Submission of information on the human rights situation in Guatemala in the context of the on-site visit, June 11, 2024, on file with the IACHR, p. 15; Information received at a meeting of the IACHR Technical Secretariat with civil society organizations, held on November 28, 2024, in the context of the technical visit to follow up on the preliminary observations of the on-site visit.

<sup>867</sup> Center for Legal Action on Human Rights, et al., Ref. Submission of information on the human rights situation in Guatemala in the context of the on-site visit, June 11, 2024, in the IACHR archives, p. 15; CLADEM Guatemala, et al., Input on: Women and the right to live free from violence, on the occasion of the visit of the Inter-American Commission on Human Rights (IACHR) to Guatemala, July 22, 2024, on file with the IACHR, p. 5.

<sup>868</sup> IA2020, IV.A, p. 445; Center for Legal Action on Human Rights, et al., Ref. Submission of information on the human rights situation in Guatemala in the context of the on-site visit, June 11, 2024, on file with the IACHR, p. 15; CLADEM Guatemala, et al., Input on: Women and the right to live free from violence, on the occasion of the visit of the Inter-American Commission on Human Rights (IACHR) to Guatemala, July 22, 2024, on file with the IACHR, p. 5.

operates with the support of its member institutions.<sup>869</sup> It was also converted into an entity of the executive branch, now reporting to the Ministry of the Interior, and the inclusion of the OJ was not considered. Furthermore, despite the fact that violence against women is one of the most commonly reported crimes at the national level, the Public Prosecutor's Office requested its removal in 2023. Currently, CONAPREVI is composed of the Executive Branch and civil society.<sup>870</sup>

437. Likewise, as CONAPREVI is the body responsible for coordinating PLANovi—the main national public policy for preventing violence against women—its implementation has also been affected. According to the information received, this policy has not been incorporated as a priority by government authorities or the relevant ministries.<sup>871</sup> In general, the lack of coordination between the various responsible institutions, the absence of monitoring of the achievement of objectives, and insufficient budget allocation would affect the implementation of the aforementioned public policies and plans, especially the PNPDIM and the Action Plan of Resolution

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<sup>869</sup> Government of the Republic of Guatemala, Supplementary and updated information on the on-site visit of the Inter-American Commission on Human Rights to Guatemala, carried out during the month of July 2024. Ref. DIDEH-DEPCADEH-21-2025/DADN/ac, March 10, 2025, p. 28.

<sup>870</sup> Center for Legal Action on Human Rights, et.al., Ref. Submission of information on the human rights situation in Guatemala in the context of the on-site visit, June 11, 2024, on file with the IACHR, p. 16; Guatemalan Women's Group – GGM, Progress and challenges in preventing violence against women and strengthening Comprehensive Support Centers for Women Survivors of Violence, July 25, 2024, on file with the IACHR, p. 5; CLADEM Guatemala, et. al., Input on: Women and the right to live free from violence, on the occasion of the visit of the Inter-American Commission on Human Rights (IACHR) to Guatemala, July 22, 2024, on file with the IACHR, p. 5; Information received at a meeting of the IACHR Technical Secretariat with civil society organizations, held on November 28, 2024, as part of the technical follow-up visit to the preliminary observations of the on-site visit.

<sup>871</sup> Center for Legal Action on Human Rights, et al., Ref. Submission of information on the human rights situation in Guatemala in the context of the on-site visit, June 11, 2024, on file with the IACHR, p. 17; Information received at a meeting of the IACHR Technical Secretariat with civil society organizations, held on November 28, 2024, in the context of the technical visit to follow up on the preliminary observations of the on-site visit.

1325.<sup>872</sup> In this regard, the State indicated that the SVET plans to implement specific actions in 2025 to strengthen inter-institutional coordination mechanisms and consolidate the Public Policy against Sexual Violence 2019-2029.<sup>873</sup>

438. On the other hand, the capacity and territorial coverage of specialized justice institutions and services continue to be insufficient.<sup>874</sup> For example, the specialized courts and tribunals of the OJ, among other justice institutions, are only present in departmental capitals; the National Institute of Forensic Sciences (INACIF) only has offices in 55 of the country's 340 municipalities<sup>875</sup>; and the comprehensive services for women victims of violence provided by CAIMUS, DEMI, and OAVs are not available in all

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<sup>872</sup> ATRAHDOM and SITRADOM, Written information submitted in the context of the on-site visit to Guatemala, undated, in the IACHR archives, p. 8; Information received at a meeting of the Technical Secretariat of the IACHR with civil society organizations, held on November 28, 2024, in the context of the technical follow-up visit to the preliminary observations of the on-site visit; CEDAW Committee, Concluding observations on the tenth periodic report of Guatemala, CEDAW/C/GTM/CO/10, June 14, 2024, para. 18.

<sup>873</sup> Government of the Republic of Guatemala, Supplementary and updated information on the on-site visit of the Inter-American Commission on Human Rights to Guatemala, carried out during the month of July 2024. Ref. DIDEH-DEPCADEH-21-2025/DADN/ac, March 10, 2025, p. 38.

<sup>874</sup> Center for Legal Action on Human Rights, et al., Ref. Submission of information on the human rights situation in Guatemala in the context of the on-site visit, June 11, 2024, on file with the IACHR, p. 17; CLADEM Guatemala, et al., Input on: Women and the right to live free from violence, on the occasion of the visit of the Inter-American Commission on Human Rights (IACHR) to Guatemala, July 22, 2024, on file with the IACHR, pp. 5-6.

<sup>875</sup> CLADEM Guatemala, et.al., Input on: Women and the right to live free from violence, on the occasion of the visit of the Inter-American Commission on Human Rights (IACHR) to Guatemala, July 22, 2024, on file with the IACHR, p. 5.

departments of the country.<sup>876</sup> The latter also lack adequate resources to fulfill their functions and expand the coverage of their services.<sup>877</sup> Of particular concern are the recurring delays in the transfer of funds to CAIMUS, which limit the provision and scope of the essential services they offer.<sup>878</sup> There are also insufficient resources to implement MAIMI and measures to protect victims.<sup>879</sup>

439. According to the information received, despite an increase in the number of specialized prosecutors' offices and judicial bodies, these are overwhelmed due to the large number of complaints they receive. In addition, they lack sufficient staff and specialized protocols to deal

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<sup>876</sup> Office of the Ombudsman for Indigenous Women, Written information submitted in the context of the on-site visit to Guatemala, undated, on file with the IACtHR, pp. 1 and 3; Meeting of the IACtHR with local authorities, held on July 23, 2024, in the context of the on-site visit to Guatemala; Center for Legal Action on Human Rights, et al., Ref. Submission of information on the human rights situation in Guatemala in the context of the on-site visit, June 11, 2024, on file with the IACtHR, p. 17; OHCHR Guatemala, [Human rights situation in Guatemala during 2023. Report of the United Nations High Commissioner for Human Rights](#), AHRC/55/21, February 6, 2024, p. 13; CEDAW Committee, [Concluding observations on the tenth periodic report of Guatemala](#), CEDAW/C/GTMCO/10, June 14, 2024, para. 24 c).

<sup>877</sup> Office of the Ombudsman for Indigenous Women, Written information submitted in the context of the on-site visit to Guatemala, undated, on file with the IACtHR, pp. 1 and 3; Center for Legal Action on Human Rights, et al., Ref. Submission of information on the human rights situation in Guatemala in the context of the on-site visit, June 11, 2024, on file with the IACtHR, p. 17; OHCHR Guatemala, [Human rights situation in Guatemala during 2023. Report of the United Nations High Commissioner for Human Rights](#), AHRC/55/21, February 6, 2024, p. 13; CEDAW Committee, [Concluding observations on the tenth periodic report of Guatemala](#), CEDAW/C/GTMCO/10, June 14, 2024, p. 24 c).

<sup>878</sup> OHCHR Guatemala, [Human rights situation in Guatemala in 2023. Report of the United Nations High Commissioner for Human Rights](#), AHRC/55/21, February 6, 2024, p. 13; CEDAW Committee, [Concluding observations on the tenth periodic report of Guatemala](#), CEDAW/C/GTMCO/10, June 14, 2024, p. 24 c); Center for Legal Action on Human Rights, et.al., Ref. Submission of information on the human rights situation in Guatemala in the context of the on-site visit, June 11, 2024, on file with the IACtHR, p. 17; CLADEM Guatemala, et al., Input on: Women and the right to live free from violence, on the occasion of the visit of the Inter-American Commission on Human Rights (IACtHR) to Guatemala, July 22, 2024, on file with the IACtHR, p. 5; Information received at a meeting of the IACtHR Technical Secretariat with civil society organizations, held on November 28, 2024, as part of the technical follow-up visit to the preliminary observations of the on-site visit.

<sup>879</sup> CEDAW Committee, [Concluding observations on the tenth periodic report of Guatemala](#), CEDAW/C/GTMCO/10, June 14, 2024, p. 24 b).

with cases of violence against women from an intersectional perspective.<sup>880</sup> This, combined with limited geographical coverage and economic and linguistic barriers, makes it difficult for indigenous, Garifuna, and Afro-descendant women, girls, and adolescents to access reporting channels and protection resources.<sup>881</sup> On the other hand, information was received about the institutional and budgetary weakening of the Secretariat for Women and the Unit for Control, Monitoring, and Evaluation of courts and tribunals specializing in crimes of femicide and violence against women, both under the responsibility of the OJ, whose purpose is to contribute to improving women's access to justice.<sup>882</sup>

440. The Commission recalls that, in accordance with Articles 7 and 8 of the Convention of Belém Do Pará, States have a duty to adopt the necessary laws and policies to prevent, punish, and eradicate violence against women, always taking into account the situation of

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880 Meeting of the IACtHR with local authorities and civil society organizations in Alta Verapaz, both held on July 23, 2024, as part of the on-site visit to Guatemala; Meeting of the IACtHR with representatives of organizations and communities, held on July 23, 2024, as part of the on-site visit; Information received at a meeting of the IACtHR Technical Secretariat with civil society organizations, held on November 28, 2024, as part of the technical visit to follow up on the preliminary observations of the on-site visit.

881 Meeting of the IACtHR with CSOs on DESCA rights, children, older persons, and persons with disabilities, held on July 25, 2024, as part of the on-site visit; Center for Legal Action on Human Rights, et. al., Ref. Submission of information on the human rights situation in Guatemala in the context of the on-site visit, June 11, 2024, on file with the IACtHR, p. 17; CLADEM Guatemala, et al., Input on: Women and the right to live free from violence, on the occasion of the visit of the Inter-American Commission on Human Rights (IACtHR) to Guatemala, July 22, 2024, on file with the IACtHR, pp. 5-6; CEDAW Committee, [Concluding observations on the tenth periodic report of Guatemala](#), CEDAW/C/GTMCO/10, June 14, 2024, paras. 14 a) and b), and 24 d).

882 Myrna Mack Foundation, [Challenges for the Justice System. An analysis of budget execution and its relationship to access to justice](#), Guatemala 2023, p. 40; MESECVI Committee of Experts expresses [concern over the possible closure of judicial entity responsible for strengthening access to justice for women victims of violence in Guatemala](#), February 28, 2024; Center for Legal Action on Human Rights, et.al., Ref. Submission of information on the human rights situation in Guatemala in the context of the on-site visit, June 11, 2024, in the IACtHR archives, p. 17; CLADEM Guatemala, et al., Input on: Women and the right to live free from violence, on the occasion of the visit of the Inter-American Commission on Human Rights (IACtHR) to Guatemala, July 22, 2024, on file with the IACtHR, pp. 5-6.

greater vulnerability to violence faced by some women due to, among other reasons, their age, ethnic-racial origin, and socioeconomic status. In this regard, it calls on the State of Guatemala to adopt legislation that strengthens the prevention, punishment, and redress of sexual violence against girls and adolescents, as well as to ensure the necessary coordination and articulation among the authorities responsible for implementing the legal framework and public policies for the protection of women's rights. In addition, the Commission reiterates its call on the State to strengthen the institutions responsible for preventing and addressing gender-based violence against women, providing them with the material and financial resources necessary for their proper functioning and national coverage.<sup>883</sup>

### **3. Access to justice and impunity**

441. The Commission notes with concern a pattern of impunity surrounding cases of violence against women, girls, and adolescents, particularly those who are indigenous, Garifuna, and of African descent. During its on-site visit, the Commission received information identifying gender-based and sexual crimes as among the most commonly reported crimes nationwide and those that place the heaviest workload on prosecutors and courts.<sup>884</sup> However, these crimes are also among

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<sup>883</sup> IACtHR, [Annual Report 2021, Chapter IV.B](#), para. 221.

<sup>884</sup> Government of the Republic of Guatemala, Supplementary and updated information on the on-site visit of the Inter-American Commission on Human Rights to Guatemala, carried out during the month of July 2024. Ref. DIDEH-DEPCADEH-16-2025/DADNac, February 17, 2025, Annex 2.1; Myrna Mack Foundation, [Justice in Figures: Analyzing the Performance of the Justice System Institutions](#), Guatemala 2024, p. 15, 72-73; Myrna Mack Foundation, [Challenges for the Justice System. An analysis of budget execution and its relationship to access to justice](#), Guatemala, 2023, p. 29.

those most frequently dismissed or shelved by prosecutors without ever reaching the courts, thus remaining unpunished.<sup>885</sup>

442. According to the information received, approximately 70% to 80% of cases of violence against women are dismissed or shelved, and only 3% reach a verdict. The rest end up being dismissed, suspended, or prosecuted under discretionary criteria, among other procedural outcomes.<sup>886</sup> Although dismissal is a power of the Public Prosecutor's Office, there is concern about the abuse of this power to dismiss these cases. In some departments, the number of dismissed cases even exceeds the total number of cases filed.<sup>887</sup> In 2023 alone, 211,893 complaints were dismissed and 52,522 were shelved by the women's prosecutor's office and other prosecuting agencies.<sup>888</sup> As of September 2023, of the cases reported to the femicide prosecutor's office, 89.6% were dismissed or shelved, and only 6% resulted in a

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<sup>885</sup> Center for Legal Action on Human Rights, et.al., Ref. Submission of information on the human rights situation in Guatemala in the context of the on-site visit, June 11, 2024, in the IACtHR archives, p. 15; CLADEM Guatemala, et al., Input on: Women and the right to live free from violence, on the occasion of the visit of the Inter-American Commission on Human Rights (IACtHR) to Guatemala, July 22, 2024, on file with the IACtHR, p. 4; Information received at a meeting of the IACtHR Technical Secretariat with civil society organizations, held on November 28, 2024, as part of the technical follow-up visit to the preliminary observations of the on-site visit.

<sup>886</sup> Myrna Mack Foundation, [Justice in Figures: Analyzing the Performance of the Justice System Institutions](#), Guatemala 2024, p. 40; International Commission against Impunity in Guatemala, [Dialogues for Strengthening Justice and Combating Impunity in Guatemala](#), June 2019, p. 9; Information received at a meeting of the IACtHR Technical Secretariat with civil society organizations, held on November 28, 2024, as part of the technical follow-up visit to the preliminary observations of the on-site visit.

<sup>887</sup> Myrna Mack Foundation, [Justice in Figures: Analyzing the Performance of the Justice System Institutions](#), Guatemala, 2024, pp. 38-39.

<sup>888</sup> Department of Fiscal and Technical Information Systems, Report from women's prosecutors, procedural outcomes recorded in the period from January 1, 2015, to April 15, 2024, on file with the IACtHR.

conviction.<sup>889</sup> It should be noted that, in the case of serious crimes—such as violence against women in all its forms—judicial authorization is required, which is not happening.<sup>890</sup> These figures directly contradict the Attorney General's claim that the PPO prosecutes all complaints it receives without distinction (see para. 144).

443. Several factors have been identified that influence the dismissal and shelving of cases of violence against women. In general, these include: (i) inadequate investigations and lack of evidence; (ii) corruption and influence peddling; (iii) lack of or inadequate scientific evidence; (iv) delay leading to victim reluctance(v) disregard in court for expert testimony; and (vi) inadequate assessment of the victim's statement, which is essential in cases of gender-based violence. In particular, the high workload that these cases represent and the lack of awareness among justice operators are highlighted.<sup>891</sup> It was noted that victims are sometimes blamed for not opposing this process, without considering whether they received timely information or advice to make a decision in this regard.<sup>892</sup> Similarly, the limited capacity to assist indigenous women in their native languages also results in dismissals.<sup>893</sup>

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<sup>889</sup> OACNUDH Guatemala, [Human rights situation in Guatemala during 2023. Report of the United Nations High Commissioner for Human Rights](#), AHRC/55/21, February 6, 2024, p. 12; Information received at a meeting of the Technical Secretariat of the IACtHR with civil society organizations, held on November 28, 2024, as part of the technical follow-up visit to the preliminary observations of the on-site visit.

<sup>890</sup> Myrna Mack Foundation, [Justice in Figures: Analyzing the Performance of the Justice System Institutions](#), Guatemala 2024, p. 42.

<sup>891</sup> Myrna Mack Foundation, [Justice in Figures: Analyzing the Performance of the Justice System Institutions](#), Guatemala, 2024, pp. 37-38, 41, 63, and 67; International Commission against Impunity in Guatemala, [Dialogues for Strengthening Justice and Combating Impunity in Guatemala](#), June 2019, p. 16.

<sup>892</sup> Information received at a meeting of the IACtHR Technical Secretariat with civil society organizations, held on November 28, 2024, as part of the technical follow-up visit to the preliminary observations of the on-site visit.

<sup>893</sup> Meeting of the IACtHR with representatives of organizations and communities, held on July 23, 2024, as part of the on-site visit.

444. Furthermore, the absence of an intercultural perspective and the lack of reasonable accommodations make it impossible for indigenous and Garifuna women, girls, and adolescents with disabilities to access justice.<sup>894</sup> According to information provided by civil society, indigenous women who have intellectual and psychosocial disabilities or multiple disabilities are at even greater risk of suffering assaults and different types of violence, given that they do not have independent means of support and their communities do not have inclusive services (transportation and health), personal assistance systems and reasonable accommodations (sign language interpreters, tactile interpreters, alternative communication, among others), or decentralized support networks that include rural areas, and therefore depend exclusively on their families.<sup>895</sup>

445. In view of the above, the Commission recalls that, in light of Articles 7 and 8 of the Convention of Belém Do Pará, States must act with due diligence in investigating, punishing, and redressing gender-based violence against women, girls, and adolescents, especially those in situations of greater vulnerability. In this regard, it highlights the urgent need to strengthen institutional capacity to eliminate the impunity that characterizes cases of violence against women, girls, and adolescents, especially those who are indigenous, Garifuna, and Afro-descendant. This should be achieved through effective criminal investigations that incorporate a gender and intercultural perspective in a cross-cutting manner and are followed up consistently by the courts to ensure adequate punishment and redress.

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<sup>894</sup> Meeting with CSOs: Situation of indigenous peoples and Afro-descendants, held on July 22, 2024, on file with the IACtHR.

<sup>895</sup> Colectiva Mujeres con Capacidad de Soñar a Colores (Women with the Ability to Dream in Color Collective), (Consultant Ana María Escobar Melgar), Project “Nosotras Lideramos” (We Lead): Research A [Flor de Piel \(On the Surface\). Living our sexuality without barriers. Stories of women with disabilities from Sololá and Pelén-Guatemala](#), Guatemala, August 2023, pp. 28-29, on file with the IACtHR; Independent Living Collective and LEGIS: [Situation of women with disabilities in Guatemala in relation to their sexual and reproductive rights, the violence they face, and their lack of access to justice](#), Report sent to CEDAW, September 2023.

#### 4. Sexual and reproductive rights

446. With regard to sexual and reproductive rights, the IACHR notes with deep concern that the number of pregnancies among girls and adolescents remains at alarming levels, especially among girls under the age of 14, which is also an indicator of sexual violence.<sup>896</sup> Although between 2021 and 2024 there was a gradual reduction in the total number of births to teenage mothers<sup>897</sup>, the number of births to girls under the age of 14 has not decreased, despite the fact that in such cases it must be considered the result of rape, according to criminal law.<sup>898</sup> During this period, there were 8,470 births to girls aged 10 to 14<sup>899</sup>, averaging nearly 2,000 cases per year. During the first half of 2025, there were 1,047 more births<sup>900</sup>, in addition to 754 pregnancies in girls under the age of 14 between January and April of the same year.<sup>901</sup> These figures may not reflect the seriousness of the problem, as a high number of births are not registered, often because they are the result of incestuous rape.<sup>902</sup>

447. Likewise, the IACHR notes that the majority of pregnancies among girls and adolescents between the ages of 10 and 19 occur in the departments of Huehuetenango, Alta Verapaz, Quiche, San Marcos,

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<sup>896</sup> IACHR, [Annual Report 2024, Chapter IV.A.](#) para. 479; IACHR, [Annual Report 2021, Chapter IV.B.](#) para. 224; IACHR, [Annual Report 2020, Chapter IV.A.](#) para. 442.

<sup>897</sup> Over the last four years (2021-2024), there has been a gradual decline in the total number of births to mothers between the ages of 10 and 19, reaching a decrease of 6.48% in 2022, 8.63% in 2023, and 10.14% in 2024. Own calculation based on figures reported by the Reproductive Health Observatory (OSAR). In [2021](#), there were 72,077 births; in [2022](#), there were 67,688; in [2023](#), there were 62,306; and in [2024](#), there were 56,568.

<sup>898</sup> Congress of the Republic, [Penal Code](#), Book Two, Title III, Chapter I, on sexual violence, Article 173.

<sup>899</sup> According to OSAR figures, the number of births to mothers aged between 10 and 14 was as follows: 2,041 in [2021](#); 2,187 in [2022](#); 2,289 in [2023](#); and 1,953 in [2024](#).

<sup>900</sup> OSAR, [Birth records of mothers between the ages of 10 and 19 – Year 2025](#), accessed in June 2025.

<sup>901</sup> OSAR, [Pregnancies in girls under 14 as of April 30, 2025](#), accessed in June 2025.

<sup>902</sup> CEDAW Committee, [Concluding observations on the tenth periodic report of Guatemala](#), CEDAW/C/GTM/CO/10, June 14, 2024, p. 54 c); IACHR, [Annual Report 2020, Chapter V.](#) para. 108.

and Guatemala. These departments have the largest indigenous populations and the highest rates of poverty, malnutrition, rurality, and limited access to education and health services.<sup>903</sup> Similarly, a study conducted between 2018 and 2019 found that unplanned pregnancies were more common among indigenous adolescents. In addition, among girls and adolescents who gave birth in a public hospital, indigenous girls were more likely to be unmarried during pregnancy and to have fewer years of schooling than non-indigenous girls.<sup>904</sup>

448. The Commission recognizes the State's efforts to provide care to pregnant girls and adolescents under the age of 14. In 2016, it created the Comprehensive Approach Route, signed by various public institutions, with the aim of providing them with health, education, and justice services, as well as economic benefits.<sup>905</sup> Within this framework, through the "VIDA" Social Program, conditional cash transfers (CCTs) are made to abused girls whose cases have been brought to court, and both they and their children are provided with the necessary care through the MSPAS health services. In 2024, 182 cases were handled under this program<sup>906</sup>, 157 in 2023, 159 in 2022, and 179 in 2021.<sup>907</sup> For its part, the Public

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<sup>903</sup> OSAR, [Pregnancies among girls and adolescents in Guatemala](#), 2022.

<sup>904</sup> Gómez, N., Del Risco Sánchez, O., Pinho-Pompeu, M. et al. [Pregnancy and childbirth outcomes among indigenous adolescents in Guatemala: a cohort study](#). Reprod Health 19, 149, 2022.

<sup>905</sup> Government of the Republic of Guatemala, Supplementary and updated information on the on-site visit of the Inter-American Commission on Human Rights to Guatemala, carried out during the month of July 2024. Ref. DIDEH-DEPCADEH-21-2025DADN/ac, March 10, 2025, p. 28; Secretariat against Sexual Violence, Exploitation, and Trafficking in Persons, [Comprehensive Care Approach for Pregnancies in Girls and Adolescents Under 14 Years of Age](#), undated, accessed in June 2025.

<sup>906</sup> Government of the Republic of Guatemala, Supplementary and updated information on the on-site visit of the Inter-American Commission on Human Rights to Guatemala, carried out during the month of July 2024. Ref. DIDEH-DEPCADEH-21-2025DADN/ac, March 10, 2025, p. 40.

<sup>907</sup> Human Rights Office of the Archdiocese of Guatemala, [Girls having children. Situation of children and adolescents in Guatemala 2022-2024](#), 2025, p. 91.

Ministry has a hotline for handling these cases through public and private health services throughout the Republic.<sup>908</sup>

449. However, the Commission notes significant challenges in accessing these comprehensive care services. First, the maximum number of beneficiaries of the VIDA program in a year is only 182 cases, despite the fact that 2,000 births to girls under the age of 14 are registered annually. Second, given the high percentage of sexual crimes that are closed by the prosecutor's office due to dismissal or filing, without reaching the courts<sup>909</sup>, making TMCs conditional on cases having been brought to court severely limits access to this economic benefit. Finally, pregnant adolescents over the age of 14 who are victims of sexual violence cannot benefit from these comprehensive care measures. There is also no information on similar care programs or services for them, despite the fact that they also require support in terms of health, education, and justice.
450. On the other hand, in terms of prevention, the National Plan for the Prevention of Teenage Pregnancy (PLANEA) 2024-2032<sup>910</sup> stands out. The IACHR recognizes that this Plan includes among its objectives the development of comprehensive sexuality education in schools and communities in accordance with age and international standards, and increased access for adolescents to comprehensive

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<sup>908</sup> Government of the Republic of Guatemala, Supplementary and updated information on the on-site visit of the Inter-American Commission on Human Rights to Guatemala, carried out during the month of July 2024. Ref. DIDEH-DEPCADEH-16-2025/DADN/ac, February 17, 2025, Annex 3, pp. 4-5.

<sup>909</sup> Center for Legal Action on Human Rights, et.al., Ref. Submission of information on the human rights situation in Guatemala in the context of the 2024 on-site visit, June 11, 2024. On file with the IACHR, p. 15; CLADEM Guatemala, et al., Input on: Women and the right to live free from violence, on the occasion of the visit of the Inter-American Commission on Human Rights (IACHR) to Guatemala, July 22, 2024. In the IACHR archives, p. 4; Information received at a meeting of the IACHR Technical Secretariat with civil society organizations, held on November 28, 2024, in the context of the technical follow-up visit to the preliminary observations of the *on-site* visit carried out from July 22 to 26, 2024.

<sup>910</sup> Government of the Republic of Guatemala, Supplementary and updated information on the on-site visit of the Inter-American Commission on Human Rights to Guatemala, carried out during the month of July 2024. Ref. DIDEH-DEPCADEH-21-2025/DADN/ac, March 10, 2025, pp. 29-30.

sexual and reproductive health services, as well as access to contraceptives based on free and informed decisions.<sup>911</sup> However, according to information provided by civil society, PLANEA is a program that does not have a specific budget allocated to it, which has hindered its implementation.<sup>912</sup>

451. With regard to comprehensive sexuality education, the information received shows that children and adolescents have little or no access to sufficient and adequate information for sexual and reproductive health care.<sup>913</sup> Within the framework of the Public Policy for the Protection of Life and Family Institutions 2021-2032, while promoting sexual abstinence as the only effective measure to reduce rates of early pregnancy and sexually transmitted diseases<sup>914</sup>, information and services on family planning and modern contraceptive methods are restricted.<sup>915</sup> Likewise, according to data taken from PLANEA 2018-2022, 56.47% of the adolescents who participated in a study claimed not to have received any information

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<sup>911</sup> Government of the Republic of Guatemala, [National Plan for the Prevention of Teenage Pregnancy. PLANEA 2018-2022](#), accessed in June 2025.

<sup>912</sup> Meeting of the Technical Secretariat of the IACtHR with civil society organizations, held on November 28, 2024, as part of the technical follow-up visit to the preliminary observations of the on-site visit.

<sup>913</sup> Center for Legal Action on Human Rights, et. al., Ref. Submission of information on the human rights situation in Guatemala in the context of the on-site visit, June 11, 2024, on file with the IACtHR, p. 28; CEDAW Committee, [Concluding observations on the tenth periodic report of Guatemala](#), CEDAW/C/GTM/CO/10, June 14, 2024, p. 34 c).

<sup>914</sup> CEDAW Committee, [Concluding observations on the tenth periodic report of Guatemala](#), CEDAW/C/GTM/CO/10, June 14, 2024, p. 38 d).

<sup>915</sup> Center for Legal Action on Human Rights, et.al., Ref. Submission of information on the human rights situation in Guatemala in the context of the on-site visit, June 11, 2024, in the IACtHR archives, p. 29; CLADEM Guatemala, et al., Input on: Women and the right to live free from violence, on the occasion of the visit of the Inter-American Commission on Human Rights (IACtHR) to Guatemala, July 22, 2024, on file with the IACtHR, p. 8; CEDAW Committee, [Concluding observations on the tenth periodic report of Guatemala](#), CEDAW/C/GTM/CO/10, June 14, 2024, p. 39 d).

on how to prevent pregnancy.<sup>916</sup> According to civil society, comprehensive sex education is very scarce in many indigenous communities and non-existent in some regions of the country.<sup>917</sup>

452. During its on-site visit, the Commission received extensive information on the lack of institutional action to promote and advance strategies for preventing pregnancy among girls and adolescents, especially those that seek to promote comprehensive sexuality education and improve access to sexual and reproductive health information and services for children and adolescents. Such initiatives and strategies face direct opposition from some sectors of the government.<sup>918</sup> For example, there were reports of Bill No. 6157, introduced in October 2022, which aims to "develop a legal framework for the implementation of comprehensive sexuality

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<sup>916</sup> Son Niñas No Madres Movement, Written information submitted in the context of the on-site visit to Guatemala, undated, on file with the IACtHR.

<sup>917</sup> Meeting of the IACtHR with CSOs on the situation of indigenous peoples and persons of African descent, held on July 22, 2024, in the context of the on-site visit.

<sup>918</sup> Meetings of the IACtHR with members of the National Congress, the Ministry of Health, and CSOs on DESCA rights, children, older persons, and persons with disabilities, held on July 22, 24, and 25, 2024, respectively, during the on-site visit to Guatemala. Meeting of the IACtHR Technical Secretariat with civil society organizations, held on November 28, 2024, as part of the technical follow-up visit to the preliminary observations of the on-site visit; Center for Legal Action on Human Rights, et. al., Ref. Submission of information on the human rights situation in Guatemala in the context of the on-site visit, June 11, 2024, in the IACtHR archives, p. 16; CLADEM Guatemala, et al., Input on: Women and the right to live free from violence, on the occasion of the visit of the Inter-American Commission on Human Rights (IACtHR) to Guatemala, July 22, 2024, on file with the IACtHR, p. 3; CEDAW Committee, [Concluding observations on the tenth periodic report of Guatemala](#), CEDAW/C/GTMCO/10, June 14, 2024, p. 34 c).

education (CSE) in the Guatemalan education system<sup>919</sup>, but which has not been given the corresponding legislative process.<sup>920</sup>

453. Access to sexual and reproductive health services remains limited and unequal for girls and adolescents, putting their lives at risk and resulting in forced motherhood and especially as a result of sexual violence. Despite the risks to life, health, wellbeing and life projects that pregnancy poses for younger girls<sup>921</sup>, the grounds for therapeutic abortion permitted under criminal law are not applied.<sup>922</sup> Furthermore, as the authorization of two doctors is required to proceed, access to this service is practically impossible for those who live in rural areas or far from health centers.<sup>923</sup> Nor can they seek medical care in the event of obstetric emergencies due to abortion, as they run the risk of criminal prosecution following the ex officio action of the health services.<sup>924</sup> As an example, in 2024, at

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<sup>919</sup> The IACtHR notes that neither the aforementioned bill nor its legislative status are available on the official website of the Congress of the Republic. The text of the initiative is available on the SCRIBD website at the following link: <https://www.scribd.com/document/657779779/6157>

<sup>920</sup> Meeting of the IACtHR Technical Secretariat with civil society organizations, held on November 28, 2024, as part of the technical follow-up visit to the preliminary observations of the on-site visit; Agencia Ocote, [A law to compel the State to comply with sex education](#), February 23, 2023; Ruda, [WE DESERVE COMPREHENSIVE SEXUALITY EDUCATION!](#), October 25, 2022.

<sup>921</sup> IACtHR, [IACtHR calls for progress in the recognition and protection of reproductive rights in the region](#), January 31, 2023, citing WHO, [Teenage pregnancy. Facts and figures](#), September 15, 2022.

<sup>922</sup> Congress of the Republic, [Penal Code](#), Book Two, Title I, Chapter III, on abortion, Article 137.

<sup>923</sup> Meeting of the IACtHR with CSOs on DESCA rights, children, older persons, and persons with disabilities, held on July 25, 2024, as part of the on-site visit; Meeting of the Technical Secretariat of the IACtHR with civil society organizations, held on November 28, 2024, within the framework of the technical follow-up visit to the preliminary observations of the on-site visit; Son Niñas No Madres Movement, Written information submitted within the framework of the on-site visit to Guatemala, undated, on file with the IACtHR.

<sup>924</sup> CLADEM Guatemala, et. al., Input on: Women and the right to live free from violence, on the occasion of the visit of the Inter-American Commission on Human Rights (IACtHR) to Guatemala, July 22, 2024, on file with the IACtHR, p. 5.

least one case of abortion against a teenager was brought before a court of first instance.<sup>925</sup>

454. Similarly, there is concern about the promotion of initiatives that would limit the right of girls and adolescents to receive sexual and reproductive health information and services. In this regard, information was received on Bill No. 6743<sup>926</sup> and Bill No. 6475<sup>927</sup>, which together propose criminal penalties for anyone who promotes or facilitates measures for the performance of abortion, including the dissemination of related information, ideas, theories, or points of view. If approved, these laws would further restrict girls' and adolescents' access not only to safe abortion in cases permitted by law, but also to other reproductive health information and services, such as family planning and contraceptive and emergency methods.

455. In light of the above, the IACtHR emphasizes the importance of prioritizing the protection and guarantee of the sexual and reproductive rights of girls and adolescents, with their best interests as the guiding principle. It is imperative to adopt effective measures for the prevention of unwanted pregnancies, with the collaboration, coordination, and political will of all sectors of the State. Furthermore, it recalls that guaranteeing the right of children and adolescents to comprehensive sex education that is objective, appropriate to their level of development, and scientifically based is essential to preventing unwanted pregnancies and identifying risks and situations of sexual violence.<sup>928</sup> Therefore, it urges the State to guarantee this right in accordance with inter-American standards on the matter.

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<sup>925</sup> Government of the Republic of Guatemala, Supplementary and updated information on the on-site visit of the Inter-American Commission on Human Rights to Guatemala, carried out during the month of July 2024. Ref. DIDEH-DEPCADEH-16-2025/DADN/ac, February 17, 2025, Annex 2.1.

<sup>926</sup> Congress of the Republic, [Initiative No. 6473](#), accessed in June 2025.

<sup>927</sup> Congress of the Republic, [Initiative No. 6475](#), accessed in June 2025.

<sup>928</sup> Inter-American Court of Human Rights, [Case of Guzmán Albarracín et al. v. Ecuador](#), Merits, Reparations and Costs, Judgment of June 24, 2020, p. 139.

456. Similarly, the right of girls and adolescents to sexual and reproductive health implies timely access to health services and comprehensive, accurate, and science-based information on family planning and modern contraceptive methods, as well as emergency contraception and safe abortion.<sup>929</sup> In this regard, measures should be adopted to expand—not restrict—access to such information and health services, from an intersectional gender and age perspective, in addition to other relevant differentiated approaches, so that they are accessible and appropriate for all girls and adolescents. Specifically, the IACHR urges the State to remove the legislative, public policy, and other obstacles identified in this report that impede access to reproductive health information and services and calls for the implementation of the World Health Organization's guidelines on abortion care.<sup>930</sup>

457. On the other hand, due to socioeconomic and geographic factors, many women, especially indigenous women, do not have access to adequate health services during pregnancy, childbirth, and the postpartum period, which has contributed to high rates of maternal mortality<sup>931</sup> and mother-to-child transmission of HIV.<sup>932</sup> According to 2023 estimates, the rate is 94 maternal deaths per 100,000 live births.<sup>933</sup> In that year, 316 deaths were recorded, and as of

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<sup>929</sup> IACHR, [IACHR: States must guarantee the reproductive autonomy and freedom of women and adolescents](#), October 1, 2024; IACHR, [IACHR: States and society must protect girls and adolescents from all violence](#), October 11, 2022.

<sup>930</sup> World Health Organization, [Guidelines on abortion care](#), 2022.

<sup>931</sup> Ministry of Social Development, [First quarterly report on Guatemala's social policy, 2024](#), May 2024, p. 8; Meeting of the IACHR with United Nations Agencies, held on July 24, 2024, as part of the on-site visit; CEDAW Committee, [Concluding observations on the tenth periodic report of Guatemala](#), CEDAW/C/GTMCO/10, June 14, 2024, p. 38 a).

<sup>932</sup> CEDAW Committee, [Concluding observations on the tenth periodic report of Guatemala](#), CEDAW/C/GTMCO/10, June 14, 2024, p. 38 b).

<sup>933</sup> World Health Organization, [Trends in maternal mortality: estimates 2000 to 2023. Estimates by WHO, UNICEF, UNFPA, World Bank Group and UNDESA / Population Division](#), 2025.

September 2024, there were 252 more cases.<sup>934</sup> A report by MIDES, with data from 2022, shows that the most frequent causes are hemorrhages and hypertension, and that more than 88.5% of deaths were probably preventable. It also reveals that seven out of ten maternal deaths correspond to indigenous women, most of whom are between 20 and 29 years of age.<sup>935</sup> As for girls and adolescents, according to data compiled by civil society, there were 36 maternal deaths in 2022, 40 in 2023, and 36 in 2024.<sup>936</sup>

458. The overrepresentation of indigenous women in maternal mortality figures reflects social inequality in health.<sup>937</sup> Their timely access to reproductive health services is limited by multiple obstacles, such as, among others, the remoteness of services, obstetric violence, the lack of translators, and the lack of knowledge of their worldview and cultural practices in public health services.<sup>938</sup> For example, according to a study conducted between 2018 and 2019, some indigenous adolescents who gave birth in a public hospital were subjected to non-recommended obstetric practices during delivery, such as episiotomy.<sup>939</sup>
459. In this context, midwives—or traditional birth attendants—have played a fundamental role in providing sexual and reproductive health services, especially in communities where such services are

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<sup>934</sup> Presidential Secretariat for Planning and Programming, [Annual report on progress in the implementation of social development and population policy, November 15, 2024](#), p. 13.

<sup>935</sup> Ministry of Social Development, [First quarterly report on Guatemala's social policy, year 2024](#), May 2024, pp. 9 and 11.

<sup>936</sup> Human Rights Office of the Archdiocese of Guatemala, [Girls Having Children. Situation of Children and Adolescents in Guatemala 2022-2024](#), 2025, p. 82.

<sup>937</sup> Ministry of Social Development, [First quarterly report on social policy in Guatemala, 2024](#), May 2024, pp. 8-9.

<sup>938</sup> Agencia Ocote, [In a decade, 4,257 women died in childbirth or during pregnancy in Guatemala](#), April 8, 2024.

<sup>939</sup> Gómez, N., Del Risco Sánchez, O., Pinho-Pompeu, M. et al. [Pregnancy and childbirth outcomes among indigenous adolescents in Guatemala: a cohort study](#). Reprod Health 19, 149, 2022.

not available.<sup>940</sup> In this regard, the Commission welcomes Decree 4-2025, which approved an increase in financial incentives for midwives throughout the country and established their permanent and annual disbursement.<sup>941</sup> At the same time, there is concern about reports of a lack of resources and materials to assist with childbirth, as well as acts of violence and discrimination by authorities, especially against those who do not speak Spanish.<sup>942</sup>

460. The IACtHR reiterates that access to sexual and reproductive health information and services, including timely and regular prenatal care, is essential to reducing maternal mortality.<sup>943</sup> Likewise, in response to the social inequalities that affect indigenous women, girls, and adolescents, differentiated measures must be adopted to ensure that health services are accessible and culturally appropriate for them.<sup>944</sup> In this regard, the Commission urges the State to adopt concrete measures to expand coverage and strengthen reproductive health services, including traditional midwifery services, taking into account ethnic, racial, and linguistic diversity. These measures should integrate the perspectives of women, traditional midwives, and health personnel in order to ensure that reproductive health information and

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<sup>940</sup> Meetings of the IACtHR with representatives of organizations and communities, and with local authorities, both held on July 23, 2024, as part of the on-site visit; UNICEF Guatemala, [UNICEF recognizes the importance of the work of more than 5,600 Comadronas Promotoras de Lactancia Materna \(midwives who promote breastfeeding\)](#), May 20, 2024; Agencia Ocote, [In a decade, 4,257 women died in childbirth or during pregnancy in Guatemala](#), April 8, 2024.

<sup>941</sup> Congress of the Republic, [Financial support for midwives, Decree 4-2025](#), published on March 10, 2025.

<sup>942</sup> Meeting of the IACtHR with representatives of organizations and communities, held on July 23, 2024, as part of the on-site visit to Guatemala; Community Press, [Midwives in Ixcán report that they have not received incentives from the State](#), May 26, 2023.

<sup>943</sup> IACtHR, [IACtHR calls on States to reduce maternal mortality among women, girls, and persons of African descent with the capacity to bear children](#), July 26, 2024; IACtHR, [IACtHR urges all States to adopt comprehensive and immediate measures to respect and guarantee women's sexual and reproductive rights](#), October 23, 2017.

<sup>944</sup> IACtHR, [IACtHR: States must guarantee the reproductive health of rural women, girls, and adolescents](#), October 17, 2024.

services respond to the different cultures, dynamics, and worldviews of indigenous communities.

## 5. Indigenous women

461. The IACtHR observed the situation of the rights of indigenous women, who are victims of intersectional structural discrimination and racism. The Commission is concerned about the testimonies gathered from indigenous women who are victims of forced evictions and criminalization<sup>945</sup>, who have endured the burning of their homes, schools, crops, and belongings, and who, faced with arrest warrants issued against them, cannot leave their communities. As a result, their children are also unable to attend school.<sup>946</sup>

462. This information was also confirmed by the United Nations Special Rapporteur on the rights of indigenous peoples, who expressed concern about the multiple forms of discrimination and violence faced by indigenous women in Guatemala. During her visit, she received reports of rape, murder, and abuse committed during forced evictions, many of which remain unpunished. In turn, there were reports of stigmatization of criminalized women and women romantically involved with men who are criminally prosecuted, who suffer economic difficulties in supporting their families. In addition, it was noted that the presence of companies in indigenous territories increases the risks of sexual and labor exploitation, especially in regions such as the Ixil area, where there have been reports of an increase in prostitution and domestic servitude associated with extractive projects.<sup>947</sup>

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<sup>945</sup> Added to these facts is the discrimination faced by women who sometimes have no academic training either, as in the case of the women of the Pocomán community, according to testimonies received. Meeting with civil society organizations, Petén, July 23, 2024. Information received during the IACtHR's on-site visit to Guatemala, on file with the IACtHR.

<sup>946</sup> Meeting with civil society organizations, Alta Verapaz, July 23, 2024, on file with the IACtHR.

<sup>947</sup> Human Rights Council, Report of the Special Rapporteur on the rights of indigenous peoples on her visit to Guatemala, A/HRC/39/17/Add.3, August 10, 2018, pp. 16 and 17.

463. Indigenous women face greater disadvantages in the context of the palm oil industry: they have access to fewer job opportunities than men in their communities, have limited participation in decisions about land, and bear a disproportionate burden of unpaid domestic and care work. They also have to travel greater distances to obtain food and water for their families, in conditions that are already precarious. On the other hand, the hiring of men from other municipalities and the presence of brothels near payment centers have been linked to an increase in the sexual trafficking of indigenous women and girls.<sup>948</sup>

464. The Commission also heard testimony in Petén that many women have been murdered, imprisoned, and beaten by security forces for defending their rights. In addition, women have reported that, in addition to the violence suffered by their peers, they have been victims of intimidation and sexual violence.<sup>949</sup>

465. Violence against indigenous women manifests itself in both the public and private spheres, through sexist and racist practices. The Commission heard with concern that many indigenous women leaders are excluded from judicial spaces such as magistrates' courts, the National Police, or the Public Ministry, preventing them from accompanying victims in legal proceedings. This exclusion causes significant emotional and financial strain, as trials can last for more than five years.<sup>950</sup> Furthermore, indigenous women lawyers face systematic discrimination in the exercise of their profession. They are treated differently, interrupted or discredited, and in many

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<sup>948</sup> Report of the Independent Delegation of International Lawyers to Guatemala, "We are not usurpers: this is our land." Agrarian conflict and the rights of indigenous peoples in Alta Verapaz, September 2023, p. 28.

<sup>949</sup> Meeting with civil society organizations, Alta Verapaz and Petén, July 23, 2024, on file with the IACHR.

<sup>950</sup> Meeting with civil society organizations, Alta Verapaz, July 23, 2024. Information received during the IACHR's on-site visit to Guatemala, on file with the IACHR.

cases, seen only in terms of their traditional roles as mothers or wives, according to reports.<sup>951</sup>

466. The Commission was also alerted to systematic discrimination against indigenous women and girls with disabilities in rural areas, and the ongoing obstacles they face in accessing their rights. They highlighted that opportunities to attend school remain very low, and that precarious working conditions and slave-like labor continue to exist.<sup>952</sup>
467. Finally, environmental pollution has destroyed the community's natural resources, affecting Indigenous women and their traditional ceramic production. Sand extraction and other activities have caused land subsidence, leaving homes in precarious conditions and, faced with the loss of their livelihoods, many indigenous women have been forced to migrate and work in domestic service.<sup>953</sup>
468. The Commission reminds the State of its duty to adopt affirmative measures to guarantee the political participation of indigenous women, including measures to prevent discrimination, violence, and criminalization in forced evictions and territorial conflicts. The IACtHR urges the State to guarantee their effective access to justice through interpreters, legal support, the inclusion of women leaders in institutional spaces, and intercultural training for justice operators.

## **F. LGBT persons**

469. The IACtHR notes that discrimination affects people of diverse sexual orientations, gender identities, and expressions, who suffer acts of violence based on prejudice. As discussed in this section, violence is exacerbated in a context where there are no legal protections or

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<sup>951</sup> Meeting with civil society organizations, Quetzaltenango, July 23, 2024. Information received during the IACtHR's on-site visit to Guatemala, on file with the IACtHR.

<sup>952</sup> IACtHR, [On-site visit to Guatemala](#), July 22-26, 2024. Meeting with CSOs: Situation of indigenous peoples and Afro-descendants. Guatemala City, July 22, 2024, on file with the IACtHR.

<sup>953</sup> Meeting with civil society organizations, Chinatula, July 24, 2024. Information received during the IACtHR's on-site visit to Guatemala, on file with the IACtHR.

public policies to protect and guarantee the rights of lesbian, gay, bisexual, transgender, non-binary, gender-diverse, and intersex (LGBTI) persons. These factors are compounded by the influence of organized movements with considerable political and economic influence, which have promoted the advancement of laws and initiatives with discriminatory motivations or effects against LGBTI persons. All of these circumstances motivate internal displacement, as well as migration and the search for international protection.

## **1. Discrimination and violence**

470. LGBTI people in Guatemala face various forms of discrimination and violence. In particular, civil society organizations have highlighted organized crime and gangs<sup>954</sup>, as well as state security agents and non-state actors<sup>955</sup>, as perpetrators of acts of violence. A study conducted in Guatemala found that of 290 LGBT people interviewed, 89% reported having suffered some form of sexual violence in their lives.<sup>956</sup>

471. According to a civil society report, between 2021 and 2023, at least 101 murders of LGBTI people were recorded.<sup>957</sup> Cisgender gay and bisexual men accounted for the highest number of victims in Guatemala (64.1%). According to civil society, the murders are often motivated by hatred or rejection of sexual orientation or

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<sup>954</sup> HRW, ["I Live Every Day in Fear": Violence and Discrimination Against LGBT People in El Salvador, Guatemala, and Honduras and Barriers to Asylum in the United States](#), p. 90.

<sup>955</sup> HRW, [Guatemala Should Do More for LGBT People](#), March 19, 2021; HRW ["This is what happens when you look like this" Violence and discrimination against LGBT people in Guatemala](#), 2021, pp. 31-40; HRW, ["I live every day in fear" Violence and discrimination against LGBT people in El Salvador, Guatemala, and Honduras and obstacles to asylum in the United States](#), 2020, p. 95.

<sup>956</sup> No Ficción, [Study: 35% of Guatemalan LGBT people suffered violence in the last year](#), December 14, 2020.

<sup>957</sup> Sin Violencia LGBTI, Annual Report. [Homicides of LGBTI+ people in Latin America and the Caribbean, 2023](#), p. 30.

expression.<sup>958</sup> The lack of official data on complaints, investigations, judicial proceedings, or convictions in cases of prejudice-based violence is also noteworthy.<sup>959</sup>

472. The Public Prosecutor's Office provided data on victims and persons accused of committing crimes who identified as LGBTI at the time their statements were taken. However, as highlighted above, there is no quality public data, nor disaggregated data, on prejudice-based violence against LGBTI persons, nor on its link to other related crimes. Civil society organizations have promoted data collection to understand the criminal phenomenon affecting their communities, but the lack of a data policy leads to inconsistencies between official figures and those from civil society.
473. In this regard, civil society organizations have reported difficulties in reporting crimes committed against people with non-normative sexual orientations and gender identities. This is despite the fact that, in 2014, the Public Prosecutor's Office Case Management System (SISCOMP) incorporated a box that allows victims of crimes to be identified as "LGBT".<sup>960</sup>
474. LGBTI activists reported violence from non-state actors, including their own family members. It was reported that some churches carry out conversion therapies and practices with the aim of eliminating diverse sexual orientation or gender identity, and that the institutionalization and deprivation of liberty of LGBTI persons is often done with the consent of their families.<sup>961</sup> In this regard, the

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<sup>958</sup> Meeting with civil society organizations on women and LGBTI people, July 22, 2024; Agencia Presentes, [Guatemala 2023: Amid political crisis, violence against LGBTIQ+ people increased](#), December 21, 2023.

<sup>959</sup> Cristosal, [“Study on access to justice for people, particularly the trans population, in Guatemala, Honduras, and El Salvador.”](#)

<sup>960</sup> HRW, [“This is what happens when you look like this.” Violence and discrimination against LGBT people in Guatemala.](#) March 2021.

<sup>961</sup> Meeting with civil society organizations on women and LGBTI people, July 22, 2024. See also: Flacso Guatemala, [Cure or torture? ECOSIEGCS the misnamed conversion therapies in Guatemala](#), 2023.

Ministry of the Interior reported that it has no police records of complaints of institutionalized practices or "conversion therapies" in the country.<sup>962</sup>

475. In 2023, the CEDAW Committee highlighted its concern about smear campaigns and misinformation against women defenders of diversity rights in Guatemala and recommended that the State prevent, investigate, prosecute, and punish crimes against lesbian, bisexual, trans, and intersex women and develop a system for collecting and analyzing data on violence against them.<sup>963</sup>
476. With regard to trans men and masculinities, civil society denounced their invisibility in public policies. In particular, in the context of health, trans men are denied gynecological and sexual and reproductive health treatments. There is also a lack of sufficiently trained personnel to care for them, and access to hormone treatments is limited.<sup>964</sup> According to public information, although a comprehensive and differentiated health care strategy for transgender people has been in place in Guatemala since 2016, it has not been implemented.<sup>965</sup>
477. In Guatemala, violence disproportionately affects people with diverse sexual orientations, gender identities, gender expressions, and sexual characteristics. According to information received during the visit, in 2024, civil society documented 19 violent deaths with extreme cruelty of lesbian, gay, bisexual, transgender, non-binary, or gender-diverse persons, mostly gay men, bisexual men, and transgender women.

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<sup>962</sup> State of Guatemala, Supplementary and updated information to the on-site visit, Report of the General Directorate of the Penitentiary System, March 10, 2025, on file with the IACtHR.

<sup>963</sup> United Nations, Committee on the Elimination of Discrimination against Women, Concluding observations on the tenth periodic report of Guatemala, adopted by the Committee at its 86th session (October 9-27, 2023), [CEDAW/C/GTM/CO/10](#), para. 32.

<sup>964</sup> Meeting with civil society organizations on women and LGBTI persons, July 22, 2024.

<sup>965</sup> Ruda, [Who cares for transmasculine populations in Guatemala?](#), October 21, 2024.

478. In 2023, the number reached 34 cases, representing a 20% increase compared to previous years. However, these figures continue to be underestimated due to the lack of official data on discrimination, as well as disaggregated statistics on complaints, investigations, judicial proceedings, or convictions in cases of prejudice-based violence.

479. Prejudice-based violence against LGBTI people is also one of the main factors in forced internal displacement, migration, and the search for international protection for Guatemalan LGBTI people.<sup>966</sup> In this context of lack of guarantee of rights, there have also been strong social movements against the recognition of LGBTI rights with great political influence.<sup>967</sup> These have led to the promotion of bills such as the "Life and Family Protection Law" (Law 5272) which prohibits schools from teaching students about non-heterosexual relationships, and sanctioning discrimination on the grounds of sexual orientation and in turn contribute to a social environment that is permissive of violence and discrimination against LGBTI people.<sup>968</sup>

480. Social movements that oppose the rights of LGBTI people have initiated legal action against what they perceive to be contrary to "good customs." In June 2024, the Constitutional Court of Guatemala issued an injunction ordering the monitoring of "good customs" in the context of public activities and events to be held during the 2024 LGBTI pride parade.<sup>969</sup> This decision arose from a

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<sup>966</sup> Amnesty International, [No safe place: Salvadorans, Guatemalans, and Hondurans seeking asylum in Mexico based on their sexual orientation and/or gender identity](#), 2017; Human Rights Watch, ["I live every day in fear": Violence and discrimination against LGBT people in El Salvador, Guatemala, and Honduras and obstacles to asylum in the United States](#).

<sup>967</sup> Open Democracy, [Evangelicals in Guatemala on the verge of "legalizing homophobia,"](#) January 2, 2019.

<sup>968</sup> Amnesty [International, Guatemala: Discriminatory law puts at risk the lives and rights of thousands of women, girls and LGBTI people](#), September 4, 2018. Amnesty [International, Guatemala: Discriminatory law puts at risk the lives and rights of thousands of women, girls and LGBTI people](#), September 4, 2018.

<sup>969</sup> Constitutional Court of Guatemala [@CC\_Guatemala], The Constitutional Court informs the public [[Tweet](#)] (June 28, 2024).

petition seeking to prevent LGBTI Pride activities from taking place in public spaces in Guatemala City. The measure was met with concern by civil society organizations, who point out that it could lead to censorship and discrimination against LGBTI people, limiting their right to free expression and peaceful assembly.<sup>970</sup>

## 2. Regulatory framework and public policies

481. The State reported on the Roundtable for the Prevention of Violence against the LGBTIQ+ Community, whose main objective is to coordinate inter-institutional actions to prevent all forms of violence and promote cooperation between different State institutions and civil society organizations to develop protection strategies and guarantee access to justice. It also highlighted that the National Civil Police includes training for police personnel on the human rights of LGBTI persons in its Violence and Crime Prevention Plan. This effort seeks to improve the response capacity of security forces, ensuring more adequate, respectful, and non-discriminatory treatment.<sup>971</sup>

482. The IACtHR welcomes these initiatives by the institutions responsible for public safety, which are in line with the recommendations previously issued by the IACtHR itself regarding the inclusion of information in protocols and training on how to respond to victims of violence in an appropriate and respectful manner and how to prevent ill-treatment and discriminatory policing.<sup>972</sup>

483. For its part, the Institute of Public Criminal Defense has a protocol for serving the LGBTIQ+ community and for the actions of public

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<sup>970</sup> DW, [Guatemala's Constitutional Court orders monitoring of LGBTI "good customs."](#) June 29, 2024; Infobae, [Guatemalan court grants injunction to monitor "good customs" of LGBTI parade.](#) June 28, 2024; Prensa Libre, [CC limits LGBTI parade and opens debate on the scope of freedom of action and expression.](#) June 28, 2024.

<sup>971</sup> State of Guatemala, Supplementary and updated information to the on-site visit, Report of the Presidential Commission for Peace and Human Rights, March 10, 2025, on file with the IACtHR.

<sup>972</sup> IACtHR, Violence against LGBTI persons, OEA/Ser.L/V/II.Doc.36 (2015), recommendation 53 a.

defenders.<sup>973</sup> This document provides guidelines for the proper care of these individuals by Institute officials and offers practical tools for providing timely, free, and effective defense to ensure the protection and fulfillment of the human rights of LGBTI individuals.<sup>974</sup> In turn, the MP reported courses on violence against LGBTI individuals.<sup>975</sup>

484. The IACtHR observes that these initiatives strengthen public legal aid services—including counseling, assistance, and representation—and ensure that LGBTI persons who are victims of crimes have effective access to justice. They also seek to ensure that LGBTI persons subject to criminal proceedings have access to justice free from stereotypes on the part of prosecutors and public defenders. In this regard, the State is urged to implement human rights-based training and protocols in all institutions of the justice sector, including the Judiciary and the Constitutional Court.
485. The Code of Ethics of the Executive Branch includes sexual orientation and gender identity as prohibited categories of discrimination for officials of that body.<sup>976</sup> Similarly, the Code of Ethics and Probity of the National Registry of Persons (RENAP) obliges registry staff not to discriminate on the basis of gender identity.<sup>977</sup> The Commission welcomes the existence of ongoing initiatives and protocols that contribute to access to justice and

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<sup>973</sup> Guatemalan Institute of Public Criminal Defense, [Protocol for assisting the LGBTIQ+ community and for the actions of public defenders of the Guatemalan Institute of Public Criminal Defense](#), 2020.

<sup>974</sup> Guatemalan Institute of Public Criminal Defense, [Protocol for serving the LGBTIQ+ community and for the actions of public defenders of the Guatemalan Institute of Public Criminal Defense](#), 2020.

<sup>975</sup> Supplementary information to the on-site visit, report of the Public Prosecutor's Office, p. 10.

<sup>976</sup> Government of Guatemala, Code of Ethics of the Executive Branch, Government Agreement Number 62-2024, Guatemala, April 19, 2024, available at: <https://www.onsec.gob.gt/w1/wp-content/uploads/2024/05/CODIGO-DE-ETICA-DEL-ORGANISMO-EJECUTIVO.pdf>

<sup>977</sup> National Registry of Persons (RENAP), Code of Ethics and Probity of the National Registry of Persons, Board Agreement Number 63-2021, Guatemala, 2021, available at: [https://www.renap.gob.gt/sites/default/files/informacion-publica/acuerdo\\_de\\_directorio\\_63-2021\\_codigo\\_de\\_etica\\_y\\_probidad\\_del\\_renap.pdf](https://www.renap.gob.gt/sites/default/files/informacion-publica/acuerdo_de_directorio_63-2021_codigo_de_etica_y_probidad_del_renap.pdf)

attention to crime from a gender perspective. However, it notes with concern the widespread lack of laws and public policies aimed at protecting and guaranteeing the human rights of LGBTI persons.

486. The Criminal Code prohibits discrimination on the basis of gender, race, ethnicity, language, age, religion, economic status, illness, disability, marital status, or "any other motive, reason, or circumstance".<sup>978</sup> Despite this open clause in criminal law, which would allow for protection on grounds not explicitly recognized in the Criminal Code, civil society organizations informed the IACtHR that there are no judicial precedents in which victims of discrimination based on sexual orientation, gender identity, gender expression, or sexual characteristics have been tried, punished, and compensated.
487. Trans, non-binary, and gender-diverse persons do not have their right to gender identity and expression recognized. There are no standardized mechanisms for adapting transgender people's documents to their gender identity, and only the "name" component of identity documents and photographs may be adapted, without allowing for the rectification of the "sex assigned at birth" marker, which exposes transgender people to discrimination and violence.<sup>979</sup>
488. On the other hand, civil society organizations denounced the lack of legal protections for families, as Guatemala does not recognize same-sex marriages or civil unions.<sup>980</sup> There are also no legal protections for the human rights of intersex people from childhood. According to civil society organizations, intersex people, from an

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<sup>978</sup> Guatemala, Penal Code, Article 202 Bis, "Discrimination."

<sup>979</sup> Organization of American States (OAS), Overview of the Legal Recognition of Gender Identity in the Americas, OAS/Ser.D/XXVII.5, May 2020, available at: <https://www.clarciev.com/en/documentos/proyectos-estudios-e-investigaciones/PANORAMA-DEL-RECONOCIMIENTO-LEGAL-DE-LA-IDENTIDAD-DE-GENERO-EN-LAS-AMERICAS.pdf>

<sup>980</sup> Meeting with civil society organizations on women and LGBTI persons, July 22, 2024.

early age, are subjected to non-consensual surgeries in order to modify and "normalize" their bodies to fit the male/female binary.<sup>981</sup>

489. The Commission notes with concern that the only legislative proposals related to LGBTI persons that have advanced in the Congress of the Republic since the last visit are contrary to the rights to equality and non-discrimination. Since its previous visit, the IACHR has followed up on the progress of Law 5272, which would prohibit the teaching of gender and sexual diversity in schools and reaffirm the institution of marriage as an exclusive right of persons of opposite sexes, among other aspects.<sup>982</sup> Finally, the decree was approved by Congress and vetoed by the President of the Republic, which was welcomed by the IACHR, considering its discriminatory nature and effects.<sup>983</sup>

490. In 2022, various legislative groups introduced Initiative 5940, "Law to Guarantee the Comprehensive Protection of Children and Adolescents against Gender Identity Disorders".<sup>984</sup> This sought to restrict the teaching of sexual diversity issues in educational centers, in addition to censoring any type of content regarding diverse gender identity in schools and the media. Furthermore, this bill classifies as pornographic material any content "that represents, promotes, or shows alterations of birth sex identity, gender reassignment, or

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<sup>981</sup> Meeting with civil society organizations on women and LGBTI persons, July 22, 2024.

<sup>982</sup> IACHR, Situation of Human Rights in Guatemala, OEA/Ser.L/V/II. Doc. 208/17, December 31, 2017, para. 123.

<sup>983</sup> IACHR, Press Release No. 052/22, "IACHR expresses concern about Initiative 5272 in Guatemala," March 10, 2022, available at: <https://www.oas.org/es/CIDH/sForm?File=es/cidh/prensa/comunicados2022/052.asp>

<sup>984</sup> Bill 5940, "Law to guarantee the comprehensive protection of children and adolescents against gender identity disorders."

variation of natural sexual identity".<sup>985</sup> Congress informed the IACtHR that this bill is pending a ruling by the Human Rights and Governance Committees.<sup>986</sup> This initiative was widely condemned by civil society organizations and international human rights bodies, including the IACtHR.<sup>987</sup>

491. In this regard, the IACtHR warns that Bill No. 5940 is based on harmful prejudices against LGBTI persons that could threaten their personal integrity, life, and other human rights by creating environments that are socially permissive of discrimination. On previous occasions, the Commission has noted that this type of prejudice against diversity of orientations and identities affects not only people who self-identify as LGBTI, but also those who may be perceived as such<sup>988</sup>, and therefore this type of initiative poses a risk to the entire population.
492. The existing legal framework is inadequate to protect and provide justice against discrimination. In addition, the few initiatives identified by the IACtHR in this area correspond to isolated efforts by specific public institutions and do not comply with state policy. Worryingly, legislative projects threaten the rights of LGBTI people.
493. The lack of legislation and public policies that specifically address the needs of LGBTI people in Guatemala has led to significant stagnation in terms of human rights for these individuals. This, in

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<sup>985</sup> HRW, [Guatemala: Law against trans people threatens rights](#), January 21, 2022; Agencia Ocote, [Law against trans people would violate Guatemalan laws and international treaties](#), January 28, 2022; CIPRODENI, [Technical Analysis: Bill 5940 "Law to guarantee the comprehensive protection of children and adolescents against gender identity disorders."](#) S.D.

<sup>986</sup> State of Guatemala, Supplementary and updated information to the on-site visit, Report of the Congress of the Republic, March 10, 2025, on file with the IACtHR.

<sup>987</sup> United Nations, Committee on the Elimination of Discrimination against Women, Concluding observations on the tenth periodic report of Guatemala, Approved by the Committee at its 86th session (October 9-27, 2023), [CEDAW/C/GTM/CO/10](#), paras. 48-49.

<sup>988</sup> IACtHR, Violence against Lesbian, Gay, Bisexual, Trans, and Intersex Persons in the Americas, OEA/Ser.L/V/II. Doc. 36/15, November 12, 2015, para. 30.

turn, has the effect of facilitating or justifying violence based on prejudice. The Guatemalan State must take urgent action to guarantee and promote the progressive recognition of the human rights of LGBTI people. At the same time, the Congress of the Republic must refrain from passing legislation with discriminatory purposes or effects, in compliance with its international obligations on equality and non-discrimination.

## **G. Persons with disabilities**

494. According to official data, the population in Guatemala amounts to more than 17 million people, of whom 50.79% are women and 49.21% are men, according to the 12th Population Census and 7th Housing Census of 2018. Therefore, it is estimated that 10.4% of the Guatemalan population has some type of disability.<sup>989</sup>
495. The State of Guatemala ratified the International Convention on the Rights of Persons with Disabilities<sup>990</sup>; the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities<sup>991</sup>; and the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled.<sup>992</sup> At the national level, the Constitution includes this population as a subject of special protection. The Penal Code defines discrimination and includes disability as a motive for this crime.<sup>993</sup>
496. Likewise, the regulatory framework highlights Decree 135 of 1996 or "Law on Care for Persons with Disabilities," which creates the National Council for the Care of Persons with Disabilities (CONADI); Decree 16 of 2008 or "Law declaring the National Disability Policy to

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<sup>989</sup> National Institute of Statistics: [2018 Population Census](#), Guatemala.

<sup>990</sup> Congress of the Republic of Guatemala, [Decree 59 of 2008](#).

<sup>991</sup> Congress of the Republic of Guatemala, [Decree 42 of 2001](#).

<sup>992</sup> Congress of the Republic of Guatemala, [Decree 07 of 2016](#).

<sup>993</sup> Congress of the Republic of Guatemala, Decree 17 of 1773, [Penal Code](#), Art. 202.

be of public interest"; Decree 21 of 2018, or "Law Reforming Copyright and Related Rights for Access by Persons with Disabilities to Printed Text"; Decree 03 of 2020, or "Law on Sign Language in Guatemala"; and Decree 06 of 2024, or "Law on Biopsychosocial Certification of Persons with Disabilities," and its amendment to Decree 10 of 2024.

497. Despite these advances, the IACtHR observes that domestic legislation continues to be based on the medical model of disability rehabilitation; both the Constitution<sup>994</sup> and most regulations continue to use expressions such as "disabled," "handicapped," "physically or mentally incapacitated," "insane," among other ways of referring to this population, assimilating it to "deficiency" or to the individual diagnosis understood as "disability".<sup>995</sup>
498. For their part, civil society organizations stated that this regulatory framework is insufficient because it does not operationalize the rights of persons with disabilities; and although discrimination on the basis of disability is criminalized, the lack of reasonable accommodations is not considered a discriminatory act.<sup>996</sup> They also highlighted that there are laws with discriminatory biases that deny the legal capacity of persons with disabilities and promote the institutionalization of persons with disabilities.<sup>997</sup>
499. In this regard, the State acknowledged that the Civil Code provides for interdiction and guardianship, which limit the legal capacity of persons with disabilities and are also incompatible with the social model and international standards enshrined in treaties ratified by

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<sup>994</sup> Political Constitution of the Republic of Guatemala of 1993, Arts. 53 and 102.

<sup>995</sup> Inter-American Commission on Human Rights, [Report on the Situation of Human Rights of Persons with Disabilities in the Americas](#), 2025, OEA/Ser.L/V/II, Doc. 1/25.

<sup>996</sup> Meeting with CSOs on DESCA, children, older persons, and persons with disabilities, July 25, 2024, on file with the IACtHR.

<sup>997</sup> Meeting with CSOs on DESCA, children, older persons, and persons with disabilities, Guatemala City, July 25, 2024, on file with the IACtHR.

Guatemala.<sup>998</sup> In this regard, the Commission understands that concepts such as guardianship and other substitute decision-making mechanisms would facilitate the institutionalization of persons with disabilities, given that many guardians have the power to authorize institutionalization, even when the person with a disability objects.<sup>999</sup>

500. The Commission took note of the progress of a draft framework law for persons with disabilities, which would seek to create a Presidential Secretariat for Disability with municipal offices and strengthen the Office of the Ombudsman for Persons with Disabilities, as well as reform the Criminal Code, Municipal Code, Health Code, among other regulations, in line with the standard of legal capacity.<sup>1000</sup>
501. Likewise, the Attorney General's Office reported on the Institutional Mental Health Policy 2023-2028, which focuses on the timely care and treatment of people suffering from psychosomatic disorders, as well as the decentralization of these medical services.<sup>1001</sup> It also highlighted the formation of a dialogue table to address the deinstitutionalization of patients who have been abandoned and have no criminal implications.<sup>1002</sup>
502. In this regard, measures were outlined to generate a progressive process of deinstitutionalization of persons with disabilities who are deprived of their liberty in psychiatric facilities because of their disability. Through the Unit for the Protection of the Rights of Women,

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<sup>998</sup> Congress of the Republic, Guatemala, January 30, 2025, Official Letter 07-2025-WEJCC/ceo, no. 7.

<sup>999</sup> American University International Law Review, [Legal Capacity: A New Paradigm Since the United Nations Convention on the Rights of Persons with Disabilities](#), Rafael Barreto Souza, 2015, Volume 3, Issue 2, Article 3, p. 206.

<sup>1000</sup> Congress of the Republic, [Framework bill for persons with disabilities moves forward](#), April 22, 2025.

<sup>1001</sup> Office of the Attorney General, State of Guatemala, Inter-American Commission on Human Rights, Written Report on Compliance with Recommendation Measures, 13. 524 Persons without criminal implications in Federico Mora, p. 20, para. 48, on file with the IACHR.

<sup>1002</sup> Ibid., p. 22, para. 55, on file with the IACHR.

Older Adults, and Persons with Disabilities, social studies and follow-up studies are conducted with the aim of locating family members of persons with disabilities, as they are the first line of defense in protecting their rights. In turn, the Judiciary periodically reviews the situation of persons with disabilities who are imprisoned for criminal offenses so that they can be considered for review of the security or substitute measure. When the judge considers it appropriate, he or she modifies the measure to probation, and at this stage of the proceedings, the PGN intervenes to search for a suitable family resource.<sup>1003</sup> If the family assessment or resource is deemed suitable, it proceeds to request the deinstitutionalization of the person.

503. The State provided information on the situation of persons with disabilities who are or were interned at the Federico Mora Hospital, which has precautionary measures and a petition in the IACHR case system.<sup>1004</sup> In this regard, it noted that the relevant investigations into the alleged facts are being carried out, and a High-Level Committee was formed to establish a plan of action to address the recommendations made by the Commission in the context of that petition. In addition, CONADI, through the School of Judicial Studies, has raised awareness among various judges and magistrates about the rights of persons with disabilities.<sup>1005</sup>

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1003 Commission for Peace and Human Rights, Supplementary and updated information on the *on-site* visit of the Inter-American Commission on Human Rights to Guatemala, carried out during the month of July 2024, Ref. DIDEH-DEPCADEH-21-2025/DADN/ac, Guatemala, March 10, 2025, p. 49, on file with the IACHR.

1004 IACHR, [MC 370-12 - 334](#) Patients of the Federico Mora Hospital, Guatemala; IACHR, [Hearing, 184th Session](#), Case 13.524 - 334 Patients of the Federico Mora Hospital v. Guatemala, June 24, 2022; IACHR, [Case No. 13.524](#) Persons without criminal implications admitted to Federico Mora Hospital, Guatemala, May 21, 2025.

1005 Commission for Peace and Human Rights, Supplementary and updated information on the *on-site* visit by the Inter-American Commission on Human Rights to Guatemala, carried out during the month of July 2024, Ref. DIDEH-DEPCADEH-21-20

Inter-American Commission on Human Rights to Guatemala, carried out during the month of July 2024, Ref. DIDEH-DEPCADEH-21-2025/DADN/ac, Guatemala, March 10, 2025, pp. 50 and 5.1, on file with the IACHR.

## H. People in situations of mobility

504. Guatemala is a country of origin, transit, and return for different profiles of people in situations of mobility<sup>1006</sup>, including migrants, refugees, and asylum seekers, many of whom have specific needs for assistance and protection.<sup>1007</sup> Additionally, and although to a lesser extent, it has also become a country of asylum for people who require international protection.<sup>1008</sup> This section will address human mobility to and from Guatemala from current perspectives.

### 1. Migration from Guatemala

505. Guatemala has been characterized as a country of origin for people in human mobility. By 2022, the Guatemalan Ministry of Foreign Affairs (MINEX) estimated that the population of Guatemalan origin living outside the country amounted to 2,968,585 people. This figure represents 16.9% of the population currently living in Guatemala. Of the total, 99.3% reside in the Americas, mainly in Belize, Canada, the United States and Mexico.<sup>1009</sup>

506. Regarding migration from Guatemala, a joint report by the Secretariat of Planning and Programming of the Presidency (SEGEPLAN) and the United Nations Population Fund (UNFPA) stated that the migratory flow of Guatemalans abroad is constant and shows a permanent upward trend. The report also indicates that most of the movement is irregular, which makes it invisible to institutions and difficult to measure.<sup>1010</sup>

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<sup>1006</sup> IACHR, [Situation of Human Rights in Guatemala: Diversity, Inequality, and Exclusion](#), OEA/Ser.L/V/II., Doc. 43/15, December 31, 2015, para. 314. IACHR, [Situation of Human Rights in Guatemala](#), OEA/Ser.L/V/II., Doc. 208/17, December 31, 2017, para. 234.

<sup>1007</sup> Global Protection Cluster, [Guatemala: Protection Analysis](#), September 2022, p. 8.

<sup>1008</sup> UNHCR, [Livelihoods and Economic Inclusion Strategy 2023-2025 Guatemala](#), April 2023.

<sup>1009</sup> Guatemalan Migration Institute (IGM), Guatemala, [Guatemala Migration Policy](#), 2023, p. 13.

<sup>1010</sup> Secretariat of Planning and Programming of the Presidency (SEGEPLAN) and United Nations Population Fund (UNFPA), [Population Situation Analysis 2024](#), p. 32.

507. For its part, the Guatemalan Migration Institute (IGM) specified that economic, social, and political inequalities, mainly in the 1970s and 1980s in Guatemala, increased the country's vulnerability to conflict, violence, and armed movements. This led to a considerable increase in migration to the United States and Mexico in search of protection.<sup>1011</sup> Subsequently, the country's economic and social dynamics in the 2000s led to migration continuing under new and complex factors and motivations that shifted from the search for international protection to constant, mainly irregular, migration in search of better life opportunities.<sup>1012</sup>
508. Specifically, the SEGEPLAN and UNFPA report highlights that for Guatemalan children and adolescents, migration is a strategy for coping with adversity, which is part of a "social imaginary associated with the possibility of success, achievement, and attainment of levels of well-being that define the course of life plans at the personal, family, and community levels." According to the report, this imaginary is reinforced by the lack of response from the State in terms of social and economic development policies.<sup>1013</sup>
509. The joint report cited above highlights that, in recent years, initiatives have been promoted to address the causes of migration by generating institutionalized procedures to facilitate temporary labor migration. These procedures are intended to mitigate the impact and risks of irregular migration. However, the efforts made are still part of a short- and medium-term government agenda, which makes them insufficient to meet the country's needs.<sup>1014</sup>
510. During its visit, the Commission requested information on the measures being taken by the State to address the structural causes

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<sup>1011</sup> IGM, Guatemala, [Guatemala Migration Policy](#), 2023, p. 12.

<sup>1012</sup> IGM, op. cit., p. 12.

<sup>1013</sup> Secretariat for Planning and Programming of the Presidency (SEGEPLAN) and United Nations Population Fund (UNFPA), [Population Situation Analysis 2024](#), pp. 33 and 34.

<sup>1014</sup> SEGEPLAN and UNFPA, op. cit., p. 56.

that force people to move in search of better opportunities or protection in third countries. Although the IACtHR notes that the State has acknowledged the problem, in its response to the request for additional information following the on-site visit, the State did not provide information on the public policies, programs, or measures promoted by the State to prevent forced displacement of the population or their effectiveness, in accordance with the obligation derived from Article 22.1 of the American Convention on Human Rights.<sup>1015</sup>

511. Despite this, the State indicated that the Temporary Work Abroad Program aims to facilitate Guatemalan workers' access to decent and legal jobs abroad, promoting regular, orderly, and safe migration, and fostering Guatemala's economic development through partnerships with international employers. According to the figures presented, between 2019 and 2025, a total of 10,910 Guatemalans have benefited from this program.<sup>1016</sup> The IACtHR notes that this measure is limited in scope and has benefited only a small group of people in recent years, compared to the estimated number of people leaving Guatemala. It therefore encourages the Guatemalan State to expand its strategies and actions to address the forced displacement of Guatemalans in accordance with its international obligations.

## **2. Disappearance of persons on the migration route**

512. During its visit, the Commission received consistent information about the disappearance of persons along the migration route and challenges related to the search, identification, delivery of remains, and access to justice. Guatemala has been identified as one of the countries most affected by the disappearance of Guatemalan migrants

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<sup>1015</sup> Ministry of Foreign Affairs, Guatemala, Diplomatic Note OEA-M4-NV-052-2025 – Supplementary and updated information on the *on-site* visit of the Inter-American Commission on Human Rights to Guatemala, carried out during the month of July 2024, p. 24, IACtHR archive.

<sup>1016</sup> Ministry of Foreign Affairs, Guatemala, Diplomatic Note OEA-M4-NV-052-2025 – Supplementary and updated information on the *on-site* visit of the Inter-American Commission on Human Rights to Guatemala, carried out during the month of July 2024, p. 24, IACtHR archive.

in transit to the United States and by disappearances of persons in transit through Guatemala, a situation that remains unaddressed.<sup>1017</sup>

513. The Commission was informed about the establishment of the Mechanism for the Search for Missing Migrants within and outside the country. Although this mechanism was implemented in December 2023, it did not begin receiving complaints until April 2024. Organizations met with during the visit expressed concern that the Mechanism is centralized in Guatemala City. They also pointed out that the IGM—the entity responsible—lacks sufficient staff to provide assistance to people who wish to use the mechanism. In the organizations' view, the Mechanism needs to be reevaluated and redesigned to meet the real needs of search, investigation, forensic identification, and, where appropriate, providing reparation for the harm caused.<sup>1018</sup>
514. Additionally, they indicated that, although the IGM is in charge of the Mechanism, the MINEX maintains certain functions of identification and search for missing migrants. The organizations stated that the MINEX does not follow up and does not provide information to families; the care it offers lacks empathy, cultural awareness, and differentiation; and the treatment is revictimizing. MINEX also does not have a database of missing migrants, thus obscuring the problem and reflecting the lack of action to address the search immediately.<sup>1019</sup> The Commission regrets the lack of state information on the scope of the search mechanism and how it is being implemented.
515. In addition to the above, the Commission received information indicating that, although the Prosecutor's Office Against Illegal Trafficking of Migrants was created in 2019, it has jurisdiction over

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<sup>1017</sup> Association of Relatives of Disappeared Migrants of Guatemala (AFAMIDEQ) et al., Disappeared migrants, a Guatemalan reality: search, identification, access to justice, and reparation for their families, Report addressed to the Inter-American Commission on Human Rights on the occasion of its *on-site* visit to Guatemala from July 22 to July 26, 2024, p. 4.

<sup>1018</sup> AFAMIDEQ et al., *supra*, p. 4.

<sup>1019</sup> AFAMIDEQ et al., *supra*, pp. 5 and 6.

"crimes defined in the Migration Law as illicit trafficking of persons, illegal trafficking of Guatemalans, illicit facilitation of stay, illicit association, as well as dismantling criminal structures that operate or whose illicit activities affect Guatemalan territory." In other words, there are no transnational mechanisms that allow for the filing of complaints and the conduct of transnational investigations for those seeking their relatives or other Guatemalans who disappear on the migration route.<sup>1020</sup> On the contrary, organizations reported that institutions such as the Prosecutor's Office would serve to criminalize irregular migration.<sup>1021</sup>

516. Another challenge observed relates to the processes of identifying and repatriating the remains of missing migrants. According to the information received, there have been documented cases of remains being repatriated to Guatemala in error. Relatives of the victims and civil society organizations told the Commission that, when these cases arise, they depend on the "will" of state institutions to resolve these irregular situations and obtain the correct remains of their relatives. In many cases, the lack of coordination between institutions and bureaucratic procedures stall the repatriation process, preventing families from receiving their relatives and conducting burials in accordance with their customs.
517. Although the IACtHR considers that the implementation of the Mechanism for the Search for Missing Migrants and the creation of institutions such as the Prosecutor's Office Against Illegal Trafficking of Migrants represent significant advances, they remain insufficient in the face of the demands of the migratory reality. The information gathered by the Commission during its visit shows that national policies and mechanisms face serious limitations in addressing the disappearances of migrants and ensuring effective and coordinated responses. It is therefore essential to reassess and redesign these mechanisms and institutions to ensure effective search and rescue

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<sup>1020</sup> AFAMIDEQ et al., *supra*, p. 18.

<sup>1021</sup> Meeting held with civil society organizations on Tuesday, July 23, 2024, as part of the *on-site* visit to Guatemala.

operations, transnational investigations, adequate care for families, and full respect for the human rights of migrants.

### **3. People in transit through Guatemala**

518. Guatemala has also become an important transit country for people in the context of human mobility<sup>1022</sup> seeking to reach, mainly, Mexico and the United States. This is reflected in the results of surveys conducted by the United Nations High Commissioner for Refugees (UNHCR), which indicate that between January and April 2024, the phenomenon of mixed movements continued to be a reality in the region, despite the political decisions of different states to curb displacement.<sup>1023</sup>

519. Despite the continued displacement of people, access to Guatemalan territory is limited by increased immigration controls, lack of documentation, and, to some extent, the limited capacity of the authorities to identify people in need of protection.<sup>1024</sup> According to information provided by the Human Rights Ombudsman (PDH), in 2024 there was an increase in transit through Guatemala with a daily average of 2,300 people<sup>1025</sup>; this compares with 2023, when a daily average of 2,213 people in transit was identified.<sup>1026</sup> Although the region has the CA4 agreement<sup>1027</sup>, which allows regular entry into Guatemala for people from Honduras, El Salvador, Nicaragua, and Costa Rica, human trafficking networks take advantage of ignorance

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<sup>1022</sup> IACtHR, [Situation of Human Rights in Guatemala: Diversity, Inequality, and Exclusion](#), OEA/Ser.L/V/II., Doc. 43/15, December 31, 2015, para. 314. IACtHR, [Situation of Human Rights in Guatemala](#), OEA/Ser.L/V/II., Doc. 208/17, December 31, 2017, para. 234.

<sup>1023</sup> UNHCR, [Profile and Protection Needs of Persons in Mixed Movements in Guatemala \(January to April 2024\)](#), July 2024, p. 2.

<sup>1024</sup> Global Protection Cluster, [Guatemala: Protection Analysis](#), September 2022, p. 10.

<sup>1025</sup> PDH, Guatemala, Contribution of the Guatemalan Human Rights Ombudsman to the 2024 report of the Inter-American Commission on Human Rights to be presented to the General Assembly of the Organization of American States (OAS), December 2024, p. 6.

<sup>1026</sup> PDH, op. cit., p. 6.

<sup>1027</sup> Central American Integration System, [The Central American Free Mobility Agreement \(CA-4\)](#), n.d.

and lack of information to bring people into the country irregularly, exposing them to risks along the migration route.

520. With regard to the risks faced, information provided to the Commission indicates that between May 2023 and April 2024, the "Scalabrini" Migrant Houses assisted a total of 35,276 people in transit, of whom 31.14% were children and adolescents. The data collected by the Migrant Houses highlights that, from May to December 2023, a total of 8,713 people reported having suffered different types of abuse or violations of their rights in Guatemalan territory, while between January and April 2024, 6,816 cases of abuse were recorded.<sup>1028</sup>
521. The main attacks reported are robberies (of money, cell phones, and identity documents), extortion (of return to the border), and kidnappings, threats, physical and psychological violence, and sexual violence against women, girls, and LGBTI persons. There were also reports of "serious cases of rape" committed by groups of people, including police officers. Most of the abuses documented by the Migrant Houses were allegedly committed by agents of the National Civil Police (PNC), although migrants also identified cases committed by bus or taxi drivers, INM agents, the Guatemalan Army, or as a result of common crime or organized crime.<sup>1029</sup>
522. Along the same lines, a report by the Pastoral Care of Human Mobility (PMH) highlights that, of the 76,894 people interviewed between 2016 and July 2023, a total of 15,718—equivalent to 20.4%—claimed to have been victims of violence during their journey through Guatemala. In other words, two out of every 10 people interviewed by the PMH claimed to have been victims of abuse. The main acts of violence documented were extortion (52.6%); assaults and robberies (21.5%); threats and intimidation (18.1%); and abuse

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<sup>1028</sup> Casa del Migrante "Scalabrini" Guatemala and Pastoral de Movilidad Humana (PMH), First Report on Human Rights Abuses and Violations against Migrants in Guatemala, May 2023 to April 2024, p. 5.

<sup>1029</sup> Casa del Migrante "Scalabrini" Guatemala and PMH, op. cit., p. 6.

of authority (4 %).<sup>1030</sup> Victims also reported excessive charges by bus drivers or other types of transport; even in agreement with PNC agents<sup>1031</sup>; scams committed by shopkeepers, hoteliers, coyotes, or guides; labor abuses such as low wages or labor exploitation; and, in the case of women, different forms of sexual violence.<sup>1032</sup> The figures available to the Commission indicate that 86.1% of abuses and violence against migrants in transit have been committed by actors belonging to government institutions, of which 74.1% were PNC agents (seven out of ten abuses), while 8.9% were IGM officials (one out of ten abuses).<sup>1033</sup>

523. The report also highlights that anyone in transit through Guatemala is vulnerable to extortion by PNC agents, even in cases where they have regularized their immigration status to enter the country.<sup>1034</sup> Similarly, surveys conducted by UNHCR among migrants in transit emphasize that these individuals consider Guatemala to be one of the countries where they have experienced the most violations.<sup>1035</sup>
524. During its *on-site* visit, the Commission traveled to the municipality of Tecún Umán, located in the department of San Marcos, on the border with the state of Chiapas, Mexico, where it observed the situation of people in human mobility transiting through the country. Tecún Umán is a border municipality characterized by the massive and continuous transit of traders (both formal and informal), temporary or seasonal workers, and mixed migratory movements. Despite the existence of a regular border crossing point into both

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<sup>1030</sup> PMH, Guatemala: Abuses against migrants in transit and possible response mechanisms, Guatemala, September 2023, p. 10.

<sup>1031</sup> PMH, *op. cit.*, p. 13.

<sup>1032</sup> PMH, *op. cit.*, p. 12.

<sup>1033</sup> PMH, *op. cit.*, p. 11.

<sup>1034</sup> PMH, *op. cit.*, p. 13.

<sup>1035</sup> UNHCR, [Profile and protection needs of persons in mixed movements in Guatemala \(January to April 2024\)](#), July 2024, p. 7.

countries, hundreds of people are seen crossing the Suchiate River daily on makeshift rafts made of tires. According to information provided to the IACHR by civil society organizations, this border area has become—in the last two years—an area of dispute between armed groups engaged in drug, arms, and migrant trafficking.<sup>1036</sup>

525. During the *on-site* visit, the IACHR delegation received testimony from a Venezuelan national who recounted the various rights violations he faced during his transit. In particular, he noted that from the moment he, his wife, and his daughter entered Guatemala, they noticed more checkpoints and searches by the PNC. They noted that Guatemala was the first country along their migration route where the police were directly involved in extortion to allow them to continue their transit, under threat of returning them to the border. That day, after their entry, the police allegedly took 15 quetzals from them<sup>1037</sup>, which was the money they had available for dinner.<sup>1038</sup>
526. Faced with this scenario, civil society organizations reported that the State does not have effective mechanisms for reporting rights violations for people in transit. In order to file a complaint, people in human mobility must remain in the country and have a physical address. In some cases, migrants are unable to identify their aggressors, whether they are public officials or private individuals, which discourages them from filing complaints or, where applicable, leads to these complaints being dismissed and shelved. In addition, the relatives of people who have died during the migration route through Guatemala do not have legal and/or administrative support to file formal complaints.<sup>1039</sup>

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<sup>1036</sup> Jesuit Migrant Network, Recommendations to States on the Mexico-Guatemala border situation. IACHR on-site visit to Guatemala, July 26, 2024, in IACHR archives.

<sup>1037</sup> Equivalent to US\$1.94 according to the exchange rate in effect on Monday, August 19, 2024. More information available here: [https://www.banguat.gob.gt/tipo\\_cambio/](https://www.banguat.gob.gt/tipo_cambio/).

<sup>1038</sup> Testimony given to the IACHR delegation during its visit to Guatemala on July 23, 2024.

<sup>1039</sup> Jesuit Network with Migrants, Recommendations to States on the Mexico-Guatemala border situation. On-site visit by the IACHR to Guatemala, July 26, 2024, on file with the IACHR.

527. For this reason, the State must guarantee the human rights of people who are part of mixed migratory movements passing through Guatemala. The obligation to guarantee human rights requires the State to adopt all measures to prevent human rights violations, as well as to ensure that any violations are effectively considered and treated as an unlawful act that may lead to sanctions for those who commit them, especially if the participation of state agents is identified, as well as the obligation to compensate victims for the harmful consequences.<sup>1040</sup>

528. Likewise, considering the lack of access to justice for migrants and their families, the Commission recalls that the State must adopt measures to investigate with due diligence human rights violations that occur in the context of human mobility, including disappearances and deaths. In this regard, strengthening mechanisms for cooperation between States in the investigation of transnational crimes is essential to combat impunity and ensure the effective protection of victims.<sup>1041</sup>

#### **4. *International protection procedures***

529. During its visit, the IACtHR was informed of the difficulties people face in accessing international protection procedures in Guatemala. According to the information received, the high cost and number of requirements necessary to obtain residency are the main difficulties people face in regularizing their immigration status or requesting protection in the country. In addition, these procedures are centralized in Guatemala City, which prevents people from submitting applications in other parts of the country.<sup>1042</sup>

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<sup>1040</sup> Inter-American Court of Human Rights, Case of Velásquez Paiz et al. v. Guatemala, Preliminary Objections, Merits, Reparations and Costs, Judgment of November 19, 2015, Series C No. 307, para. 107.

<sup>1041</sup> IACtHR, [Resolution 04/19 - Inter-American Principles on the Human Rights of Migrants, Refugees, Stateless Persons, and Victims of Trafficking in Persons](#), adopted on December 7, 2019.

<sup>1042</sup> Jesuit Network with Migrants, Recommendations to States on the Mexico-Guatemala Border Situation, IACtHR On-Site Visit to Guatemala, July 26, 2024, on file with the IACtHR.

530. For the National Council for Migrant Assistance in Guatemala (CONAMIGUA), the current lack of information also limits migration management capabilities and constitutes a significant obstacle to the exercise of migrants' rights and to the formulation and implementation of effective public policies.<sup>1043</sup>

531. In this regard, the State informed the IACHR that it is working to incorporate a human rights approach to migration management in Guatemala and, in doing so, to regularize the status of persons entering the country with the aim of reducing the risks associated with irregular migration. According to the most recent data from the IGM, 2,142 migrants received shelter<sup>1044</sup> and protection during 2023.<sup>1045</sup> The Commission has no additional information on the measures promoted by the State for the protection of persons seeking international protection in Guatemala.

532. In accordance with the Inter-American Principles on the Human Rights of Migrants, Refugees, Stateless Persons, and Victims of Trafficking in Persons (Inter-American Principles), the Commission emphasizes the importance of ensuring access to mechanisms for recognizing refugee status and other complementary protection procedures, guaranteeing that persons requiring international protection have access to a fair, efficient, and accessible procedure,

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<sup>1043</sup> National Council for Migrant Assistance of Guatemala, [Institutional Strategic Plan \(PEI\) 2024-2028](#), April 2023, p. 30.

<sup>1044</sup> The Commission has observed that States use different terms to refer to the protection of migrants through their internment in spaces that, in practice, function as immigration detention centers. Therefore, the IACHR reiterates that regardless of the name given to immigration detention, any measure that prevents a migrant from freely exercising his or her right to freedom of movement constitutes detention and, therefore, must respect the guarantees derived from the right to personal liberty. See: IACHR, [Human Mobility and Protection Obligations. Toward a Subregional Perspective](#), OAS/Ser.L/V/II., Doc. 194, July 21, 2023, para. 143.

<sup>1045</sup> IGM, Guatemala, [Annual Report on Activities](#), 2023, p. 7.

thus avoiding the precariousness of these persons' irregular situation and the consequences thereof.<sup>1046</sup>

#### 4. Returning Guatemalans

533. As noted, Guatemala has also been characterized as an important country of return for persons in situations of human mobility. According to the IGM, the irregular migration of Guatemalans leads to many of them being detained on the migration route through Mexico or at the southern border of the United States, and then returned to Guatemala.<sup>1047</sup> According to official information, the State has identified a "substantial increase" in the return of unaccompanied children and adolescents, which poses challenges in terms of care and protection, particularly upon their arrival in the country and when they are reunited with their families.<sup>1048</sup> According to IGM data, between January and December 2024, a total of 76,768 Guatemalan nationals were returned, of whom 11.04% were children and adolescents. Of the latter, 30.47% returned unaccompanied.<sup>1049</sup> In 2023, a total of 79,697 people were deported to Guatemala, of whom 20.41% were children and adolescents. Of the latter, 21.94% returned unaccompanied.<sup>1050</sup>

534. During its on-site visit to the country, the IACHR delegation visited the Reception Centers for Returnees in Tecún Umán and Guatemala City, where it observed the procedures implemented to receive

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<sup>1046</sup> IACHR, [Resolution 04/19 - Inter-American Principles on the Human Rights of Migrants, Refugees, Stateless Persons, and Victims of Trafficking in Persons](#), adopted on December 7, 2019.

<sup>1047</sup> IGM, Guatemala, [Guatemala Migration Policy](#), 2023, p. 23.

<sup>1048</sup> IGM, Guatemala, [Guatemala Migration Policy](#), 2023, p. 25.

<sup>1049</sup> IGM, Guatemala, [Report on Guatemalan Returnees 2024](#), January 1 to July 31, n.d. Date consulted: January 2, 2025.

<sup>1050</sup> IGM, Guatemala, [Annual Report 2023](#), pp. 1, 2, and 3.

people returning from Mexico and the United States. According to the information received, both centers are run by the IGM.<sup>1051</sup>

535. The Reception Center for Returnees in Tecún Umán receives people returning by land from Mexico, while the center in Guatemala City receives people returning by air from the United States and, to a lesser extent, from Mexico. This dynamic causes the flow between the two centers to vary. Although state institutions, international organizations, and civil society organizations are present at both centers, the IGM indicated to the delegation that it seeks to replicate the model of the reception center for returnees in Guatemala City in other parts of the country in order to provide comprehensive care to returnees.
536. Upon arrival at the centers, the IACtHR delegation observed that returnees must undergo immigration control carried out by the IGM. If these individuals have an arrest warrant or are reported missing, they are handed over to the PNC, which continues the corresponding procedure. The returnees are then sent for a medical check-up by the Ministry of Health authorities, although this is not mandatory.
537. Subsequently, individuals receive hygiene kits, clothing, and food from the Secretariat of Social Works of the Wife of the President of the Republic (SOSEP), the International Organization for Migration (IOM), and the United States Agency for International Development (USAID). These institutions also provide psychosocial counseling, psychological support, and follow-up on cases that require it. In particular, USAID presented the IACtHR delegation with the OPORTUGUATE application, a digital tool that helps generate educational, employment, and entrepreneurial opportunities for returned migrants.<sup>1052</sup> According to information received during the visit, more than 100 companies are registered on this platform and offer various employment and reintegration options to returnees. As of the date of publication of this report, the IACtHR has no

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<sup>1051</sup> Congress of the Republic, Guatemala, [Migration Code](#), Decree 44-2016.

<sup>1052</sup> Opportunities to start your own business, education, and employment for returning migrants <https://oportuguate.gt/>.

information on the continuity of the services provided by USAID following the suspension of external humanitarian aid from the United States, in compliance with Executive Order 14169 dated January 20, 2025.<sup>1053</sup> In this regard, the IACHR recalls that, in the event of the suspension or cancellation of funds, these services should continue to be provided by the Guatemalan State.

538. The delegation also observed that the centers offer different services. The National Registry of Persons (RENAP) guarantees access to documentation for returnees; the Ministry of Labor provides opportunities for reintegration into the workforce; the Secretariat of Social Welfare (SBS) provides specialized care to unaccompanied children who return, while the Attorney General's Office (PGN) provides legal representation for unaccompanied children and adolescents, and SOSEP provides care to family groups. Likewise, at the center located in Guatemala City, the IGM has the support of the Ministry of the Interior and the Municipality of Guatemala to provide free transportation to the different bus terminals. This is done in order to prevent extortion, theft, or other violations that returnees may face. Both centers also have civil society organizations that provide humanitarian assistance, spaces to make calls to family members, or legal advice to those who need it.

539. Although the Commission notes progress in strengthening institutional capacity to receive and guide returnees, it expresses concern that these individuals will often face the same conditions that forced them to leave in the first place. In this regard, information from SEGEPLAN and UNFPA indicates that returnees often return under adverse conditions, with no clear prospects for employment, with worn-out social support networks, and in need of psychosocial care. Given these circumstances, local governments are overwhelmed, as the conditions that led to the departure of their population continue to prevail, leaving no concrete options for

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<sup>1053</sup> White House, United States, [Reevaluating and Realigning United States Foreign Aid](#), January 20, 2025.

reintegration.<sup>1054</sup> For its part, the IGM pointed to the persistence of the original push factors, which may lead to a recurrence of irregular migration. It has therefore recognized that, in order to ensure comprehensive reintegration, it is necessary to guarantee access to health, education, and work for returnees.<sup>1055</sup>

540. In response to the request for additional information following the on-site visit, the State indicated that the Ministry of Labor has a "Returned Migrant Assistance Desk" (VAMR) that provides advice, support, vocational and employment guidance, registration, and follow-up to returned migrants to help them reintegrate into the labor market. Similarly, CONAMIGUA delivers food, hygiene kits, and first aid kits to the various reception centers for returnees. Meanwhile, the IGM is implementing the "Return Home Plan for Sustainable Integration and Reintegration," which aims to coordinate the various programs and projects promoted by the State to provide adequate living conditions for Guatemalan returnees.<sup>1056</sup>
541. The Commission understands that Guatemala faces significant challenges in ensuring comprehensive care for returning migrants, particularly in a context of forced migration marked by the prevalence of the factors of expulsion that originally led these same people to leave. Although the country has strengthened its institutional capacity with reception centers in Tecún Umán and Guatemala City, as observed by the IACtHR delegation, there are concerns about the gaps that remain in the adoption of public policies for the reintegration of these persons. It is essential that the State develop sustainable public policies that address both the immediate and structural needs of returnees. Such policies are crucial not only to ensure their effective reintegration, but also to prevent secondary

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<sup>1054</sup> SEGEPLAN and UNFPA, [Population Situation Analysis 2024](#), p. 57.

<sup>1055</sup> IGM, cited above, p. 31.

<sup>1056</sup> Ministry of Foreign Affairs, Guatemala, Diplomatic Note OEA-M4-NV-052-2025 – Supplementary and updated information on the *on-site* visit of the Inter-American Commission on Human Rights to Guatemala, carried out during the month of July 2024, pp. 25, 26, 27, and 29, IACtHR archive.

movements of persons returning to Guatemala, especially those who are forcibly returned.

## **I. Persons deprived of liberty**

542. The situation of persons deprived of liberty in Guatemala continues to be a concern for this Commission.<sup>1057</sup> In particular, this situation is characterized by overcrowding caused by a criminal policy that prioritizes incarceration, and deplorable conditions of detention that were verified by the IACtHR during its visits to prisons in Guatemala City and Cobán. These conditions have a differential impact on women, children living with their mothers in prison, and persons with disabilities.

543. According to official information, Guatemala has the capacity to house 10,883 prisoners. According to information received during the visit, as of July 23, 2024, the country had a prison population of 22,900, of whom 47% were in pretrial detention. This population is held in 32 detention facilities, 23 of which are administered by the Penitentiary System, while nine are run by the National Civil Police (PNC).<sup>1058</sup>

544. Regarding the female prison population, there are 12 detention centers administered by the Prison Service and five by the PNC, which house a total of 2,729 incarcerated women. Of these, nine house only women, while eight have a mixed population.<sup>1059</sup> According to official

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<sup>1057</sup> IACtHR, [Situation of Human Rights in Guatemala](#), OEA/Ser.L/V/II. Doc. 208/17, December 31, 2017, pp. 205-224.

<sup>1058</sup> In this regard, information provided to the IACtHR during a meeting with the General Directorate of the Penitentiary System held during the *on-site* visit, July 23, 2024. Regarding persons detained in facilities under the control of the National Civil Police, see the section on deprivation of liberty in facilities under the control of the PNC.

<sup>1059</sup> Information provided to the IACtHR during a meeting with civil society organizations on persons deprived of liberty held during the *on-site* visit, July 23, 2024.

data, the most common crimes among the general prison population are extortion, drug trafficking, and contract killings.<sup>1060</sup>

## 1. Challenges in the area of incarceration

545. The IACtHR is concerned about Guatemala's criminal policy, which prioritizes incarceration as a response to public safety problems caused by organized crime or to combat the actions of gangs, which are blamed for acts of extreme violence and crimes such as drug trafficking, extortion, human trafficking, labor and sexual exploitation, and arms trafficking.<sup>1061</sup>

546. These policies have resulted in excessive use of pretrial detention, obstacles to accessing alternatives to pretrial detention and benefits that reduce prison time, and the continued detention of people who have served their sentences due to a lack of resources to pay the fines imposed.<sup>1062</sup> This scenario has contributed to an increase in female incarceration, which has multiplied more than sixfold between 2001 and May 2023<sup>1063</sup>, while the general prison population tripled between 2020 and 2024.<sup>1064</sup> Added to this are concerns related to the administration of justice, which also result in challenges in terms of incarceration.

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<sup>1060</sup> Information provided to the IACtHR during a meeting with the General Directorate of the Penitentiary System held during the *on-site* visit, July 23, 2024.

<sup>1061</sup> IACtHR, [Report on Women Deprived of Liberty in the Americas](#), OEA/Ser.L/V/II., Doc. 91/23, March 8, 2023, para. 100.

<sup>1062</sup> In this regard, see: IACtHR, [Report on Women Deprived of Liberty in the Americas](#), OEA/Ser.L/V/II., Doc. 91/23, March 8, 2023, para. 104.

<sup>1063</sup> IACtHR, [Report on Women Deprived of Liberty in the Americas](#), OEA/Ser.L/V/II., Doc. 91/23, March 8, 2023, paras. 101 and 104.

<sup>1064</sup> To make the calculation, data on the general prison population in 2000 (6,974 persons) published by World Prison Brief was used, compared with the figures for 2024 (22,900 persons) reported by the State. In this regard, see: Information provided to the IACtHR during a meeting with the General Directorate of the Prison System held during the *on-site* visit, July 23, 2024; and World Prison Brief, ICPR, Birkbeck University of London, [World Prison Brief data – Guatemala](#), 2025.

**a) Excessive use of pretrial detention and inability to apply alternative measures**

547. According to official data, as of July 2024, of the total of 22,900 people deprived of liberty in Guatemala, 10,769 were in pretrial detention, and 6,839 of them had been in this condition for more than six months.<sup>1065</sup> These figures represent a pretrial detention rate of 47%. The IACtHR warns that the challenges identified in reducing the excessive use of this measure in the country remain. These include: i) the impossibility of applying alternative measures in a wide range of crimes; ii) the lack of individualized analysis in the application of pretrial detention; iii) the excessive length of pretrial detention; iv) the economic obstacles to accessing electronic monitoring mechanisms, the cost of which must be borne by the beneficiaries; and v) the poor training of judicial authorities.<sup>1066</sup>

548. Specifically, the inability to apply alternatives to pretrial detention is one of the main factors leading to this situation. Guatemalan law prevents this option in the case of persons accused of certain crimes related to organized crime, including drug-related crimes.<sup>1067</sup> This regulation ignores the principles on which the application of pretrial detention is based, in particular that of proportionality.<sup>1068</sup> Furthermore, available information indicates that courts tend to base

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<sup>1065</sup> Information provided to the IACtHR during a meeting with the General Directorate of the Penitentiary System held during the *on-site* visit, July 23, 2024.

<sup>1066</sup> IACtHR, [Situation of Human Rights in Guatemala](#), OEA/Ser.L/V/II, Doc. 208/17, December 31, 2017, para. 399.

<sup>1067</sup> In particular, these crimes are: international transit, planting and cultivation, manufacture or transformation, trade, trafficking or illicit storage, possession for consumption, promotion and encouragement, facilitation of means, alteration, illicit dispatch, prescription or supply, illicit transactions or investments, criminal association, procurement of impunity or evasion, promotion or encouragement of drug addiction, actual concealment, personal concealment. In this regard, IACtHR, [Report on Women Deprived of Liberty in the Americas](#), OEA/Ser.L/V/II, Doc. 91/23, March 8, 2023, para. 106. See also: Government of Guatemala, Inter. Inf. DAJCC-Seprem 003-2021, April 14, 2021, p. 6.

<sup>1068</sup> IACtHR, [Situation of Human Rights in Guatemala](#), OEA/Ser.L/V/II, Doc. 208/17, December 31, 2017, para. 402.

their decisions on the seriousness of the crime, without assessing the existence of procedural risks such as possible evasion of justice or obstruction of the investigation. It has also been reported that courts do not consider vulnerability factors such as advanced age or serious illness.<sup>1069</sup>

549. Another problem identified is the excessive length of pretrial detention, attributed to the excessive workload in the courts, judicial delays, and the possibility of extending its duration indefinitely when cases are before the Court of Appeals or the Supreme Court of Justice.<sup>1070</sup> According to testimony gathered by the Commission, in many cases, detainees can spend up to three or four years without a final judgment. There was even one case of a person who had been in this situation for up to seven years.<sup>1071</sup>

550. The IACtHR has also highlighted the existence of economic obstacles that limit access to alternative measures. In Guatemala, electronic monitoring, such as electronic bracelets, represents a challenge for those who cannot afford it, since the Law on the Implementation of Telematic Control establishes that the use of these devices must be financed by the beneficiary, unless the judge decides otherwise after a socioeconomic study. This is despite the fact that the use of this system would be more economical for the

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<sup>1069</sup> Testimony of a person deprived of liberty in the Zone 18 “Santa Teresa” Preventive Detention Center received by the IACtHR during its *on-site* visit to Guatemala, July 23, 2024. See also: IACtHR, [Follow-up Report on Recommendations on Persons Deprived of Liberty – Guatemala, Honduras, El Salvador](#), OEA/Ser.L/V/II., Doc. 126/24, June 7, 2024, para. 38.

<sup>1070</sup> Information provided to the IACtHR during a meeting with civil society organizations on persons deprived of liberty held during the *on-site* visit, July 23, 2024. See also: IACtHR, [Follow-up Report on Recommendations on Persons Deprived of Liberty – Guatemala, Honduras, El Salvador](#), OEA/Ser.L/V/II., Doc. 126/24, June 7, 2024, paras. 39-40.

<sup>1071</sup> Testimony of a person deprived of liberty at the Zone 18 “Santa Teresa” Preventive Detention Center received by the IACtHR during its *on-site* visit to Guatemala, July 23, 2024.

State than keeping people in prison, given the high cost of detention in terms of food, health, and security.<sup>1072</sup>

551. In addition to the above, in order to promote the application of alternative measures, the State has recognized the need to strengthen the education and training of justice administrators in international human rights standards.<sup>1073</sup> Furthermore, the IACtHR was informed that, despite the fact that Article 14 of the Criminal Code establishes that the general rule is freedom, there is social pressure on the courts to order pretrial detention, as public opinion tends to perceive the granting of alternative measures as an "act of corruption".<sup>1074</sup>
552. In this context, the Commission reiterates its call on the State to adopt the necessary judicial, legislative, and administrative reforms to reduce the excessive use of pretrial detention, ensuring that this measure is exceptional and limited by the principles of legality, presumption of innocence, necessity, and proportionality.<sup>1075</sup>
553. In this regard, it recalls that pretrial detention must be applied in accordance with the right to the presumption of innocence and be exclusively procedural in nature, with the legitimate aim of preventing the risk of flight or obstruction of justice. Its mandatory use depending on the type of crime not only violates the right to personal liberty, according to Article 7.3 of the American Convention on Human Rights, but also turns it into an early punishment, constituting

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<sup>1072</sup> In this regard, information provided to the IACtHR during a meeting with the General Directorate of the Penitentiary System held during the *on-site* visit, July 23, 2024. In addition, IACtHR, [Report on Women Deprived of Liberty in the Americas](#), OEA/Ser.L/V/II., Doc. 91/23, March 8, 2023, para. 221; and IACtHR, [Situation of Human Rights in Guatemala](#), OEA/Ser.L/V/II. Doc. 208/17, December 31, 2017, para. 409.

<sup>1073</sup> IACtHR, [Report on Women Deprived of Liberty in the Americas](#), OEA/Ser.L/V/II., Doc. 91/23, March 8, 2023, para. 220.

<sup>1074</sup> Information provided to the IACtHR during a meeting with staff from the Public Defender's Office held during the *on-site* visit on July 23, 2024.

<sup>1075</sup> IACtHR, [Situation of Human Rights in Guatemala](#), OEA/Ser.L/V/II. Doc. 208/17, December 31, 2017, para. 398.

an illegitimate interference by the legislature in the powers of the judiciary.<sup>1076</sup> Therefore, the IACHR urges the State to repeal any provision that imposes mandatory pretrial detention, in compliance with its international commitments.<sup>1077</sup>

**b) *Obstacles to accessing benefits that reduce prison time***

554. According to information provided to the IACHR by the Public Defender's Office, in the Guatemalan criminal justice system, the benefits most commonly applied to convicted persons are sentence reduction and parole. However, persons deprived of liberty face serious restrictions in accessing these benefits, which limits their chances of reducing or shortening their time in prison.<sup>1078</sup>

555. In particular, sentence reduction is a progressive system that allows individuals to reduce their sentences through work, education, and good behavior, reducing one day of their sentence for every two days of work or study.<sup>1079</sup> However, during the visit, the Commission received information indicating that, in practice, multiple obstacles hinder its effective implementation. These include a shortage of educational and work programs, a lack of supervision in the accreditation of activities, and administrative and bureaucratic barriers to obtaining the necessary certifications.<sup>1080</sup>

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<sup>1076</sup> In this regard, IACHR, [Report on Measures to Reduce the Use of Pretrial Detention in the Americas](#), OEA/Ser.L/V/II.163, Doc. 105, July 3, 2017, para. 91; and IACHR, [Report on the Use of Pretrial Detention in the Americas](#), OEA/Ser.L/V/II., Doc. 46/13, December 30, 2013, paras. 137 and 151.

<sup>1077</sup> Similarly, see IACHR, [Report on Measures to Reduce the Use of Pretrial Detention in the Americas](#), para. 204.

<sup>1078</sup> Information provided to the IACHR during a meeting with staff from the Public Defender's Office held during the *on-site* visit, July 23, 2024.

<sup>1079</sup> Information provided to the IACHR during a meeting with prison authorities at the Zone 18 Men's Preventive Detention Center during the *on-site* visit, July 23, 2024.

<sup>1080</sup> Information provided to the IACHR during a meeting with staff from the Public Defender's Office held during the *on-site* visit on July 23, 2024.

556. Furthermore, the application of these benefits varies according to the discretion of the courts. For example, in Quetzaltenango, courts tend to grant parole—which allows for release after serving three-quarters of the sentence—rather than sentence reduction, which allows for early release even after serving half the sentence. Unlike sentence reduction, parole does not require proof of participation in social reintegration activities during incarceration.<sup>1081</sup>

557. In addition, the effective application of these benefits continues to be limited by structural barriers. These include the excessive workload of public defenders, which prevents the timely submission of applications; restrictive judicial practices, especially in cases related to organized crime; and corruption, which in some prisons forces prisoners to pay sums of money to access reintegration activities, a necessary condition for obtaining certain prison benefits.<sup>1082</sup>

558. The IACtHR emphasizes the importance of applying these types of benefits since, in addition to reducing incarceration, they are useful in preventing community disintegration and stigmatization, while reducing the economic costs of prison use.<sup>1083</sup>

**c) *Continued detention of persons who have served their sentences***

559. Another situation of concern is the prolonged deprivation of liberty of persons who, despite having served their sentences, remain in detention because they are unable to pay the fines imposed as an additional penalty. The IACtHR received testimony from women deprived of their liberty who remain in prison because they cannot

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<sup>1081</sup> Information provided to the IACtHR during a meeting with civil society organizations on persons deprived of liberty held during the *on-site* visit on July 23, 2024.

<sup>1082</sup> Information provided to the IACtHR during a meeting with civil society organizations on persons deprived of liberty held during the *on-site* visit, July 23, 2024.

<sup>1083</sup> IACtHR, [Report on Women Deprived of Liberty in the Americas](#), OEA/Ser.L/V/II., Doc. 91/23, March 8, 2023, para. 229.

cover the amount of their fines, which are commuted to time in prison at a rate of one year of imprisonment for every 300 quetzals.<sup>1084</sup>

560. In practice, this phenomenon imposes a double sentence, punishing people who were originally sentenced to only a few years in prison with decades of imprisonment.<sup>1085</sup> By July 2024, it was estimated that around 800 people had served their prison time but remained in custody because they had not paid their fines. Judicial authorities warned that this figure could rise to 3,000 people. In response, the State hired criminal lawyers to find solutions that would allow these additional penalties to be waived and guarantee the release of those who have already served their main sentence.<sup>1086</sup>
561. The IACtHR reiterates its concern about the discriminatory impact of this legislation, which disproportionately affects people living in poverty who do not have the resources to pay the fines imposed in their sentences.<sup>1087</sup> In this regard, it recalls that any deprivation of liberty that exceeds the terms established in a final sentence constitutes a violation of the right to personal liberty.<sup>1088</sup> In view of this, the Commission urges the State of Guatemala to immediately

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<sup>1084</sup> Testimony of a person deprived of liberty at the Zone 18 “Santa Teresa” Preventive Detention Center received by the IACtHR during its *on-site* visit to Guatemala, July 23, 2024.

<sup>1085</sup> Information provided to the IACtHR during a meeting with civil society organizations on persons deprived of liberty held during the *on-site* visit, July 23, 2024.

<sup>1086</sup> Information provided to the IACtHR during a meeting with the General Directorate of the Penitentiary System held during the *on-site* visit, July 23, 2024.

<sup>1087</sup> IACtHR, [Situation of Human Rights in Guatemala](#), OEA/Ser.L/V/II. Doc. 208/17, December 31, 2017, paras. 426 and 428.

<sup>1088</sup> American Convention on Human Rights, adopted in San José, Costa Rica, November 7-22, 1969, Article 7; and IACtHR, Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas, OEA/Ser.L/V/II.131, Document approved by the Commission at its 131st regular session held from March 3 to 14, 2008, Principle 1.

release all persons who have served their sentences and are in this situation, regardless of their ability to pay the fines.<sup>1089</sup>

**d) Challenges in the administration of justice**

562. The Commission observes that the above difficulties are part of a context of serious challenges in the administration of justice in Guatemala. These include a lack of oversight by the authorities, the limitations faced by the Public Defender's Office, judicial delays, and corruption within the justice system.

563. The IACtHR was informed of the lack of effective oversight by the competent authorities. In this regard, testimonies gathered during its visit highlight that enforcement courts and the Public Defender's Office rarely visit prisons, which limits the guarantee of the rights of persons deprived of liberty, both in terms of access to justice and conditions of detention.<sup>1090</sup>

564. With regard to the Public Defender's Office, the IACtHR appreciates the efforts made in recent years to expand its presence to more municipalities and to enter into agreements with municipalities and other institutions to guarantee physical spaces for its operation.<sup>1091</sup> However, it was informed that the budget remains limited. Of the 356 million quetzals allocated, only 266 million are available for its operation, while 90 million are earmarked exclusively for the construction of new headquarters. Despite the growing demand for public defense, the budget allocated for 2024 was the same as the previous year, limiting the institution's response capacity.

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<sup>1089</sup> In a similar vein, see: IACtHR, [Report on the Situation of Human Rights in Honduras](#), OEA/Ser.L/V/II., Doc.9/24, March 24, 2024, para. 538.

<sup>1090</sup> Testimony of a person deprived of liberty in the Zone 18 "Santa Teresa" Preventive Detention Center received by the IACtHR during its *on-site* visit to Guatemala, July 23, 2024.

<sup>1091</sup> Information provided to the IACtHR during a meeting with staff from the Public Defender's Office held during the *on-site* visit on July 23, 2024.

565. The Commission notes that challenges persist in providing adequate services due to insufficient resources and work overload stemming from severe budgetary constraints. This situation, already identified during its on-site visit in 2017, remains in effect today.<sup>1092</sup> According to information provided to the IACtHR, it is estimated that each defense attorney handles between 50 and 60 cases simultaneously. In terms of criminal enforcement, the Public Defender's Office has only three main offices: Chiquimula, with 13 lawyers; Quetzaltenango, with 9; and Guatemala City, with 17; which is insufficient given the high number of convicted persons assisted by the institution.<sup>1093</sup>

566. In addition to the above, judicial delays were identified as another obstacle affecting the rights of this population.<sup>1094</sup> According to civil society, as of July 2024, there were approximately 75,000 unresolved appeals, including cassation appeals, appeals, and pretrial detention rulings, which would have led to the collapse of the justice system. Furthermore, the average time to resolve an appeal is three years.<sup>1095</sup> Likewise, the suspension of hearings is a common practice that seriously affects access to justice. Data indicate that 64% of court hearings are suspended, including hearings to consider requests for early release. This situation is also aggravated by delays in scheduling hearings and the lack of timely transfers for detainees to appear in court.<sup>1096</sup>

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<sup>1092</sup> IACtHR, [Situation of Human Rights in Guatemala](#), OEA/Ser.L/V/II. Doc. 208/17, December 31, 2017, para. 404.

<sup>1093</sup> Information provided to the IACtHR during a meeting with staff from the Public Defender's Office held during the *on-site* visit on July 23, 2024.

<sup>1094</sup> IACtHR, [Situation of Human Rights in Guatemala](#), OEA/Ser.L/V/II. Doc. 208/17, December 31, 2017, para. 406.

<sup>1095</sup> Information provided to the IACtHR during a meeting with civil society organizations on persons deprived of liberty held during the *on-site* visit, July 23, 2024.

<sup>1096</sup> Information provided to the IACtHR during a meeting with civil society organizations on persons deprived of liberty held during the *on-site* visit, July 23, 2024.

567. Based on the above, the IACHR urges the adoption of measures to overcome practices in the administration of justice that affect the human rights of this population. In particular, the Public Criminal Defense Office should be provided with sufficient human and financial resources to effectively carry out its work, and actions should be implemented to reduce judicial backlogs and combat corruption in the judicial sphere.

## **2. Detention conditions**

568. The Commission appreciates the initiatives announced by the current prison administration to improve the situation of persons deprived of liberty in Guatemala. However, it expresses concern about the conditions of detention in the country's prisons, which put the lives and integrity of this population at risk. Among the main problems identified are: i) corruption; ii) overcrowding; iii) security and violence challenges; iv) poor living conditions; v) deplorable health care; and vi) lack of social reintegration programs. These conditions were directly observed by the Commission during its visits on July 23, 2024, to the Preventive Detention Center of Zone 18 "Santa Teresa," the Preventive Detention Center for Men of Zone 18, and the Preventive Detention Center for Men and Women of Cobán; and on July 25, 2024, to the Mariscal Zavala Detention Center.

### **a) *Initiatives of the current prison administration***

569. During a meeting with the General Directorate of the Prison System (DGSP), the IACHR was informed of the previous administration's plans to propose reforms in 2023 to improve the care of this population. These included the establishment of male and female detention centers in each department, as well as the creation of high-security prisons in all regions. However, none of these objectives have been achieved. Thus, for the period 2024-2028, the current government's initiative is to adopt a prison management model focused on strengthening state control of prisons, eliminating the power of internal criminal structures, and prioritizing dignity and

humane treatment. The DGSP stated that achieving this objective would take approximately 10 years.<sup>1097</sup>

570. In this scenario, during the first 100 days of the current government, searches were carried out in prisons to assess their conditions, which revealed decades of neglect in prison infrastructure. This is because no new facilities have been built for more than 30 or 40 years, which has led to plans for the construction of between eight and nine male and female prisons in order to reduce overcrowding.<sup>1098</sup>
571. In addition to the above, the current administration told the IACtHR that the main goal is, in addition to regaining control of the centers, to launch a prison career path to improve the professionalization of staff and work on the following six strategic areas: i) security management; ii) regulatory compliance; iii) dignification of prison staff; iv) modernization of weapons and security equipment; v) implementation of a digital registration system for persons deprived of liberty in collaboration with the International Narcotics and Law Enforcement Assistance Program and the National Registry of Persons; and vi) training of personnel and creation of an elite group. They also plan to build two high-security centers, renovate an existing prison, and expand sections of detention farms. Similarly, they plan to install security cameras in the centers and improve food by eliminating the outsourcing of meal services, which would reduce costs and improve the quality of food provided to the prison population.<sup>1099</sup>

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<sup>1097</sup> Information provided to the IACtHR during a meeting with the General Directorate of the Penitentiary System held during the *on-site* visit, July 23, 2024.

<sup>1098</sup> Information provided to the IACtHR during a meeting with the General Directorate of the Prison System held during the *on-site* visit, July 23, 2024.

<sup>1099</sup> Information provided to the IACtHR during a meeting with the General Directorate of the Penitentiary System held during the *on-site* visit, July 23, 2024.

**b) Corruption in the prison system**

572. According to the information received by the IACtHR, the corruption continues to be one of the main problems within the prison system, manifested in the involvement of officials with members of criminal structures<sup>1100</sup>, and has a cross-cutting impact on all aspects related to detention conditions. In this regard, it was informed of corruption on the part of the PNC, whose agents, who perform duties both at the perimeter and in the access area to the centers, demand payment of sums of money from detainees in exchange for allowing them to bring in goods, including medicines or food.<sup>1101</sup> In view of this situation, the need has been raised to limit the role of the PNC to perimeter control of prisons and to remove its presence from inside the centers.<sup>1102</sup>

573. Likewise, the lack of control and supervision of prison staff for years has allowed corruption to spread and links to criminal groups to develop within prisons. For example, in the first half of 2024, 29 prison officers were arrested and charged with alleged crimes.<sup>1103</sup> Similarly, civil society has pointed out that illegal activities are taking place within prisons, generating considerable income for the authorities. For example, the existence of extortion networks, drug

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<sup>1100</sup> Information provided to the IACtHR during a meeting with the General Directorate of the Penitentiary System held during the *on-site* visit, July 23, 2024.

<sup>1101</sup> Testimony of a person deprived of liberty at the Zone 18 “Santa Teresa” Preventive Detention Center received by the IACtHR during its *on-site* visit, July 23, 2024.

<sup>1102</sup> Information provided to the IACtHR during a meeting with the General Directorate of the Penitentiary System held during the *on-site* visit, July 23, 2024.

<sup>1103</sup> Information provided to the IACtHR during a meeting with the General Directorate of the Penitentiary System held during the *on-site* visit, July 23, 2024. See also the section on challenges in the area of security and violence.

trafficking, and human trafficking for sexual exploitation, particularly affecting girls and women, has been documented.<sup>1104</sup>

574. Corruption also has a negative impact on social reintegration processes, limiting opportunities for rehabilitation. In particular, given that the availability of workshops and educational programs is minimal, many prisoners are forced to pay sums of between 10 and 50 quetzals to prison officers in order to participate, which is essential for accessing benefits such as sentence reduction. In addition, they are required to present identity documents and educational certificates, and if they do not have them, they are required to pay to obtain them. This situation hinders the effective reintegration of prisoners.<sup>1105</sup> In response to this situation, a process of regularizing work permits was initiated. In this review, businesses generating monthly revenues of up to 70,000 quetzals were identified.<sup>1106</sup>

575. Similarly, the IACtHR was informed that only a small group of detainees manage to obtain permits to access sales stalls due to irregularities in the allocation process.<sup>1107</sup> Thus, although markets can be seen as a form of social reintegration by allowing persons deprived of liberty to work and generate income, the lack of regulation and supervision has turned these spaces into hotbeds of corruption, highlighting the absence of effective reintegration programs.

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<sup>1104</sup> CALDH, et al., Ref. Submission of information on the human rights situation in Guatemala in the context of the *on-site* visit, June 11, 2024, in the IACtHR archives, p. 25. See also the section on challenges related to security and violence.

<sup>1105</sup> Information provided to the IACtHR during a meeting with civil society organizations on persons deprived of liberty held during the *on-site* visit, July 23, 2024.

<sup>1106</sup> Information provided to the IACtHR during a meeting with the General Directorate of the Penitentiary System held during the *on-site* visit, July 23, 2024.

<sup>1107</sup> Testimony of a person deprived of liberty at the Zone 18 “Santa Teresa” Preventive Detention Center received by the IACtHR during its on-site visit on July 23, 2024.

### c) **Overcrowding**

576. Overcrowding continues to be one of the main concerns regarding detention conditions.<sup>1108</sup> As of July 2024, Guatemala had 22,900 prisoners, despite an installed capacity of 10,883.<sup>1109</sup> As a result, the overcrowding rate is 110%. In some centers, the situation is alarming. For example, in the Santa Teresa women's center, which has a capacity for 400 people, there were 980 inmates, more than double its capacity.<sup>1110</sup>

577. This problem exacerbates the deficit in all basic services such as health, hygiene, and water supply, facilitating the spread of infectious diseases and putting the lives of the prison population at risk.<sup>1111</sup> It also continues to prevent the adequate separation of individuals according to their profile.<sup>1112</sup> In many centers, people in pretrial detention live alongside those serving sentences, and those prosecuted for minor offenses share space with people convicted of serious crimes, which exacerbates the risks within prisons. Similarly, overcrowding means that persons deprived of liberty are housed in facilities run by the PNC, which lack supervision by the

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<sup>1108</sup> IACtHR, [Situation of Human Rights in Guatemala](#), OEA/Ser.L/V/II, Doc. 208/17, December 31, 2017, p. 206.

<sup>1109</sup> Information provided to the IACtHR during a meeting with the General Directorate of the Penitentiary System held during the *on-site* visit on July 23, 2024.

<sup>1110</sup> Information provided to the IACtHR during a meeting with prison authorities at the Zone 18 "Santa Teresa" Preventive Detention Center during the *on-site* visit, July 23, 2024.

<sup>1111</sup> CALDH, REDNOVI, ICCPG, CEJIL, CIVICUS, GHRC, RFK, Be Just, AFSC, PBO, Article 19, International Platform Against Impunity, Foundation for Justice and the Democratic Rule of Law, ACTuando Juntas Jotay program, Impunity Watch, ASF, WOLA, and Protection International Mesoamérica, Ref. Submission of information on the human rights situation in Guatemala in the context of the *on-site* visit, June 11, 2024, on file with the IACtHR, p. 23.

<sup>1112</sup> IACtHR, [Follow-up Report Recommendations on Persons Deprived of Liberty – Guatemala, Honduras, El Salvador](#), OEA/Ser.L/V/II., Doc. 126/24, June 7, 2024, para. 127; Information provided to the IACtHR during a meeting with the General Directorate of the Penitentiary System held during the *on-site* visit, July 23, 2024.

Prison Service and are not equipped for the permanent accommodation of persons.<sup>1113</sup>

578. In view of the above, the IACHR reiterates that, in accordance with international human rights law, prison overcrowding may constitute cruel, inhuman, or degrading treatment, violating fundamental rights. Consequently, when the collapse of a prison system or a particular prison makes it materially impossible to offer decent conditions to persons deprived of liberty, the State cannot continue to admit persons to those facilities, because in doing so it deliberately subjects them to a situation that violates their fundamental rights.<sup>1114</sup>

**d) Challenges in the area of security and violence**

579. During its visit, the IACHR learned of the serious security crisis facing the prison system in Guatemala due to the insufficient number of prison guards. According to official information, the system has 3,800 prison guards to monitor and manage detention centers for a prison population of 22,900 persons deprived of liberty.<sup>1115</sup> For example, the Commission was informed that in a women's prison with a population of 980 women, there were only 50 operational security officers working 8-hour shifts per day.<sup>1116</sup> In another men's prison with 3,350 inmates, there are only 116 guards, which means a ratio of almost 30 inmates per officer.<sup>1117</sup>

580. In this context, according to civil society, the inmates themselves administer and control different sectors of the prisons, also assuming

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<sup>1113</sup> On this point, see the section on deprivation of liberty in facilities under the responsibility of the PNC.

<sup>1114</sup> IACHR, [Persons Deprived of Liberty in Ecuador](#), OEA/Ser.L/V/II, February 21, 2022, para. 114.

<sup>1115</sup> Information provided to the IACHR during a meeting with the General Directorate of the Penitentiary System held during the *on-site* visit, July 23, 2024.

<sup>1116</sup> Information provided to the IACHR during a meeting with prison authorities at the Zone 18 "Santa Teresa" Pretrial Detention Center during the *on-site* visit, July 23, 2024.

<sup>1117</sup> Information provided to the IACHR during a meeting with prison authorities at the Zone 18 Men's Preventive Detention Center during the *on-site* visit on July 23, 2024.

disciplinary functions. In practice, this dynamic would lead to the extortion of other inmates for access to sleeping spaces, beds, sheets, and the receipt of parcels. In addition, a fee known as "talacha" is charged for cleaning services in the sector, the value of which varies according to the socioeconomic status of the population. Those who cannot pay are subjected to violent attacks, torture, and even death.<sup>1118</sup>

581. The IACtHR warns that this context encourages the occurrence of acts of violence within prisons. In 2023, the prison system recorded 22 violent deaths within prisons, representing a rate of 84 deaths per 100,000 prisoners. However, it is estimated that the actual number of deaths could be higher due to possible underreporting of deaths that occurred in hospitals but were the result of acts of prison violence.<sup>1119</sup> In addition, civil society organizations have warned of acts of sexual violence against women deprived of liberty in mixed prisons due to the difficulties in protecting them and ensuring effective separation between men and women.<sup>1120</sup>
582. Likewise, the IACtHR expresses its extreme concern about the existence of human trafficking networks for sexual exploitation within prisons, which is made possible by the lack of adequate control of these spaces.<sup>1121</sup> During its visit to the intimate visitation area of a men's prison, the IACtHR noted the absence of security guards

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<sup>1118</sup> In this regard, information provided to the IACtHR during a meeting with civil society organizations on persons deprived of liberty held during the *on-site* visit on July 23, 2024; and CALDH, et al., Ref. Submission of information on the human rights situation in Guatemala in the context of the *on-site* visit, June 11, 2024, on file with the IACtHR, p. 24.

<sup>1119</sup> In this regard, information provided to the IACtHR during a meeting with civil society organizations on persons deprived of liberty held during the *on-site* visit, July 23, 2024; and CALDH, et al., Ref. Submission of information on the human rights situation in Guatemala in the context of the *on-site* visit, June 11, 2024, on file with the IACtHR, p. 24.

<sup>1120</sup> Colectivo Artesana, Situation of Detention Centers in Guatemala, October 2023, on file with the IACtHR, pp. 2-4.

<sup>1121</sup> CALDH, et al., Ref. Submission of information on the human rights situation in Guatemala in the context of the *on-site* visit, June 11, 2024, on file with the IACtHR, p. 24.

supervising the area. It observed rooms with beds arranged in an orderly fashion and access regulated by the inmates themselves. No couples or other women were seen in the area, as women visiting their partners remained in a separate room, without approaching the intimate visitation area.<sup>1122</sup>

583. In addition, the IACHR was officially informed that, in the Quetzaltenango women's prison, female detainees were taken out of the prison to be sexually exploited by a criminal group. Although some guards were charged with the crime of human trafficking<sup>1123</sup>, the victims were returned to prison without any structural reforms being implemented to prevent the recurrence of such incidents.<sup>1124</sup>

584. For its part, civil society has documented that, in this context characterized by a lack of control and supervision of the centers, girls and adolescents are recruited in their communities to be taken to prisons under the guise of "visits" and subjected to sexual exploitation.<sup>1125</sup> It has even recorded cases of children being abused by women in prison and has filed a complaint with the Attorney General's Office about sexual violence in a detention center in Puerto Barrios.<sup>1126</sup>

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<sup>1122</sup> Observation by the IACHR during its visit to the Zone 18 Men's Preventive Detention Center during its on-site visit to Guatemala, July 23, 2024.

<sup>1123</sup> Information provided to the IACHR during a meeting with the General Directorate of the Prison System held during the *on-site* visit, July 23, 2024.

<sup>1124</sup> Information provided to the IACHR during a meeting with civil society organizations on persons deprived of liberty held during the *on-site* visit on July 23, 2024.

<sup>1125</sup> Information provided to the IACHR during a meeting with civil society organizations on persons deprived of liberty held during the *on-site* visit, July 23, 2024; and CALDH, et al., Ref. Submission of information on the human rights situation in Guatemala in the context of the *on-site* visit, June 11, 2024, on file with the IACHR, p. 24.

<sup>1126</sup> IACHR, Request for Precautionary Measures related to Resolution No. 970-23, December 5, 2023, on file with the IACHR, paras. 5-8.

585. Given this situation, while the IACtHR appreciates the efforts to dismantle trafficking networks within prisons<sup>1127</sup>, it is concerned that no significant progress has been made in implementing prevention and control measures. The absence of effective controls, the insufficient number of agents, and the lack of security cameras continue to facilitate these practices, to the detriment of the safety and dignity of persons deprived of liberty and their families.<sup>1128</sup>

586. In this regard, the Commission condemns all acts of violence that have occurred in places of detention. Consequently, it urges Guatemala to adopt appropriate and effective measures to prevent all types of violence and to protect all children and adolescents who enter these spaces as visitors. Some of the measures include adequately separating the different categories of persons, increasing the number of personnel assigned to security and internal surveillance, and preventing the actions of criminal organizations with a presence in prisons.<sup>1129</sup> It also recalls the State's obligations to prevent, investigate, punish, and redress all acts of gender-based violence and to combat human trafficking.

**e) *Poor living conditions***

587. During its on-site visit, the Commission was informed of the extremely poor living conditions and infrastructure that characterize Guatemalan prisons<sup>1130</sup>, which it was able to observe firsthand. Specifically, it found that in Sector 4 of the Zone 18 "Santa Teresa" Preventive Detention Center, where there are 110 women deprived of

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<sup>1127</sup> Information provided to the IACtHR during a meeting with the General Directorate of the Penitentiary System held during the *on-site* visit, July 23, 2024.

<sup>1128</sup> In this regard, information provided to the IACtHR during a meeting with civil society organizations on persons deprived of liberty held during the *on-site* visit, July 23, 2024.

<sup>1129</sup> IACtHR, [Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas \(Principles and Best Practices\)](#), OEA/Ser.L/V/II.131, Document approved by the Commission at its 131st Regular Session held from March 3 to 14, 2008, Principle XXIII.

<sup>1130</sup> Information provided to the IACtHR during a meeting with civil society organizations on persons deprived of liberty held during the *on-site* visit, July 23, 2024.

their liberty, each bed is shared by two women due to overcrowding.<sup>1131</sup> In terms of infrastructure, each sector has at least one "stove" for cooking, for a total of five in the entire center. However, there is no large communal kitchen, so in some sectors, prisoners cook on their "planchas" (beds). They also have a "bodega," which is used as a makeshift kitchen area.<sup>1132</sup>

588. In addition, in the Zone 18 Men's Preventive Detention Center in sector 6, where there are 215 inmates, there are only 7 bathrooms, which is equivalent to one bathroom for every 30 people, a ratio that highlights the inadequacy of sanitary services.<sup>1133</sup> At the Cobán Men's Preventive Detention Center, it observed that in sector 1, more than 100 people sleep crowded together in the same room or in the hallways, without access to adequate ventilation. Similarly, it verified alarming conditions in the isolation cells, where up to six people are held in extremely confined spaces, with bunk beds and mattresses on the floor, without access to bathrooms.<sup>1134</sup>
589. In addition to the above, the Commission also received information about the cells reserved for women with disciplinary problems or drug use issues. Although the number of inmates in these cells has decreased in recent years, hygiene conditions remain inadequate,

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<sup>1131</sup> Observation by the IACtHR during its visit to the Zone 18 "Santa Teresa" Preventive Detention Center during its *on-site* visit to Guatemala, July 23, 2024.

<sup>1132</sup> Testimony of a person deprived of liberty at the Zone 18 "Santa Teresa" Preventive Detention Center received by the IACtHR during its *on-site* visit to Guatemala, July 23, 2024.

<sup>1133</sup> Testimony of a person deprived of liberty at the Zone 18 Preventive Detention Center for Men received by the IACtHR during its *on-site* visit to Guatemala, July 23, 2024.

<sup>1134</sup> Observation by the IACtHR during its visit to the Cobán Preventive Detention Center for Men during its *on-site* visit to Guatemala, July 23, 2024.

with multiple cases of inmates presenting skin rashes due to lack of cleanliness and sanitation.<sup>1135</sup>

**f) *Deplorable health care***

590. The IACHR found that serious challenges in medical care persist in detention centers, putting the lives and integrity of detainees at risk. These challenges include an insufficient number of health professionals, a lack of medicines, and difficulties in treating chronic diseases.<sup>1136</sup> In particular, the Commission was informed of a reduction in the number of professionals to one for every 2,970 incarcerated persons.<sup>1137</sup> According to civil society, as of June 2024, there would be only five doctors for the 22 centers in the prison system. Likewise, there would be 59 nurses nationwide.<sup>1138</sup> Additionally, detention centers would lack doctors on duty 24 hours a day, with their presence being sporadic, a few days a week, or for a few hours during the day.<sup>1139</sup>

591. In this context, the lack of adequate medical care has increased the incidence of chronic diseases such as diabetes, hypertension, and

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<sup>1135</sup> Testimony of a person deprived of liberty at the Zone 18 Men's Preventive Detention Center received by the IACHR during its *on-site* visit to Guatemala, July 23, 2024. Testimony of a person deprived of liberty at the Zone 18 "Santa Teresa" Preventive Detention Center received by the IACHR during its *on-site* visit to Guatemala, July 23, 2024.

<sup>1136</sup> In this regard, IACHR, [Situation of Human Rights in Guatemala](#), OEA/Ser.L/V/II. Doc. 208/17, December 31, 2017, para. 415.

<sup>1137</sup> Colectivo Artesana, Situation of Detention Centers in Guatemala, October 2023, on file with the IACHR, pp. 2-4.

<sup>1138</sup> Information provided to the IACHR during a meeting with civil society organizations on persons deprived of liberty held during the *on-site* visit, July 23, 2024: and CALDH, REDNOVI, ICCPG, CEJIL, CIVICUS, GHRC, RFK, Be Just, AFSC, PBO, Article 19, International Platform Against Impunity, Foundation for Justice and the Democratic Rule of Law, ACTuando Juntas Jotay program, Impunity Watch, ASF, WOLA, and Protection International Mesoamérica, Ref. Submission of information on the human rights situation in Guatemala in the context of the *on-site* visit, June 11, 2024, in the IACHR archives, p. 23.

<sup>1139</sup> IACHR, [Follow-up Report Recommendations on Persons Deprived of Liberty – Guatemala, Honduras, El Salvador](#), OEA/Ser.L/V/II., Doc. 126/24, June 7, 2024, para. 136.

kidney disease. In many cases, prisoners must purchase their medications either through family members or through commercial networks within the centers themselves, where prices are high.<sup>1140</sup> In addition, regular outings for prisoners with chronic diseases to receive treatment at national hospitals are not being carried out. According to civil society data, more than 50 prisoners suffer from diabetes without access to adequate medication, which has led to health crises and lower limb amputations.<sup>1141</sup>

592. In this scenario, according to data collected by civil society, in 2023, 110 prisoners died, equivalent to a mortality rate of 408 per 100,000 prisoners, compared to 120 per 100,000 in the general population. This would imply that a person deprived of liberty in Guatemala is 400% more likely to die in prison than a person at liberty. This would disproportionately affect women, indigenous people, and LGBTI persons.<sup>1142</sup>
593. Based on the foregoing, the IACtHR reiterates the State's obligation to provide timely and adequate health services to persons in its custody. For its part, the Inter-American Court has indicated that this duty implies guaranteeing the physical and mental health of detained

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<sup>1140</sup> Testimony of a person deprived of liberty at the Zone 18 “Santa Teresa” Preventive Detention Center received by the IACtHR during its *on-site* visit, July 23, 2024; Testimony of a person deprived of liberty at the Zone 18 Preventive Detention Center for Men received by the IACtHR during its *on-site* visit, July 23, 2024; and Colectivo Artesana, Situation of Detention Centers in Guatemala, October 2023, on file with the IACtHR, pp. 2-4.

<sup>1141</sup> CALDH, et al., Ref. Submission of information on the human rights situation in Guatemala in the context of the *on-site* visit, June 11, 2024, on file with the IACtHR, pp. 23-24.

<sup>1142</sup> CALDH, REDNOVI, ICCPG, CEJIL, CIVICUS, GHRC, RFK, Be Just, AFSC, PBO, Article 19, International Platform Against Impunity, Foundation for Justice and the Democratic Rule of Law, ACTuando Juntas Jotay program, Impunity Watch, ASF, WOLA, and Protection International Mesoamérica, Ref. Submission of information on the human rights situation in Guatemala in the context of the *on-site* visit, June 11, 2024, in the IACtHR archives, p. 23.

persons by providing regular medical examinations and, when necessary, adequate, timely, and specialized medical treatment.<sup>1143</sup>

**g) Lack of social reintegration programs**

594. The Commission emphasizes that, although there are some initiatives in this area, the Guatemalan prison system faces serious shortcomings in the implementation of social reintegration programs. In this regard, the IACtHR values educational programs ranging from early childhood education to high school, as well as vocational training courses in areas such as beauty, computing, crafts, cooking, and sewing. Participants in these workshops can even sell the products they make, provided that they own the raw materials.<sup>1144</sup> Similarly, during its visit, the IACtHR observed that one of the main activities is the markets located inside the centers, where products such as food, cigarettes, toys, and medicines are sold. These businesses generate significant income and operate mainly in the central courtyard, supplying the different sectors of the prison.<sup>1145</sup>

595. However, the reality of prisons reveals significant limitations in access to effective reintegration mechanisms, such as education and work. In particular, the IACtHR identifies various problems that affect the development opportunities of persons deprived of liberty, among which the following stand out: corrupt practices in the allocation of opportunities, through the demand for sums of money from detainees by prison officers in exchange for access to activities or for

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<sup>1143</sup> Inter-American Court of Human Rights, [Case of Chinchilla Sandoval et al. v. Guatemala, Preliminary Objection, Merits, Reparations, and Costs. Judgment of February 29, 2016](#), Series C No. 312, paras. 171-72.

<sup>1144</sup> Information provided to the IACtHR during a meeting with prison authorities at the Zone 18 Men's Preventive Detention Center held during the *on-site* visit, July 23, 2024; and Information provided to the IACtHR during a meeting with prison authorities at the Zone 18 "Santa Teresa" Preventive Detention Center during the *on-site* visit on July 23, 2024.

<sup>1145</sup> Observation by the IACtHR during its visit to the Zone 18 Men's Preventive Detention Center during its *on-site* visit to Guatemala on July 23, 2024.

bringing in products for sale.<sup>1146</sup> Likewise, the scarcity of work activities, derived from the insufficiency of resources allocated for this purpose, which the IACHR was able to verify.<sup>1147</sup>

596. In addition, there are limited educational opportunities available. For example, during its on-site visit, the Commission learned that at the Zone 18 "Santa Teresa" Preventive Detention Center, which houses 980 women, only 150 women work and 120 study.<sup>1148</sup> Furthermore, in some cases, persons deprived of liberty must bear the costs of accessing educational activities—for example, to obtain the necessary documentation—which also hinders their access. Similarly, detainees are not motivated to pursue university degrees, since it is not possible to begin them in prison and continue them outside.<sup>1149</sup>
597. The IACHR recalls that, in accordance with the American Convention on Human Rights and other international instruments, the purpose of imprisonment is the social reintegration of individuals. To this end, it is essential that States adopt comprehensive public policies aimed at reintegration, in order to prevent individuals from remaining in a cycle of social exclusion and criminal recidivism.<sup>1150</sup>

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<sup>1146</sup> Testimonies of persons deprived of liberty at the Zone 18 "Santa Teresa" Preventive Detention Center and the Zone 18 Preventive Detention Center for Men received by the IACHR during its *on-site* visit on July 23, 2024.

<sup>1147</sup> In this regard, observations by the IACHR and testimonies from persons deprived of liberty gathered during its visits to the Zone 18 Preventive Detention Center for Men and the Zone 18 "Santa Teresa" Preventive Detention Center during its *on-site* visit on July 23, 2024.

<sup>1148</sup> Information provided to the IACHR during a meeting with prison authorities at the Zone 18 "Santa Teresa" Preventive Detention Center held during the *on-site* visit on July 23, 2024; Testimony of a person deprived of liberty at the Zone 18 Preventive Detention Center for Men received by the IACHR during its *on-site* visit on July 23, 2024.

<sup>1149</sup> Information provided to the IACHR during a meeting with prison authorities at the Zone 18 Men's Preventive Detention Center held during the *on-site* visit on July 23, 2024.

<sup>1150</sup> IACHR, [Report on Women Deprived of Liberty in the Americas](#), OEA/Ser.L/V/II., Doc. 91/23, March 8, 2023, para. 229.

### **3. Differentiated impacts of incarceration**

#### **a) *Women deprived of liberty***

598. The data collected by the IACHR during its visit indicate that women deprived of liberty face precarious conditions in prisons. In particular, they lack access to personal hygiene products, such as sanitary pads for menstruating women and diapers for adult women.<sup>1151</sup> In addition, many of them have expressed that the distance between prisons and their homes makes it difficult to maintain contact with their families and limits regular visits, which exacerbates their isolation.<sup>1152</sup>

599. The IACHR is concerned about the lack of access to gynecological specialists.<sup>1153</sup> Likewise, women deprived of liberty have indicated that they are almost never taken to receive medical care outside the prison due to the lack of fuel for transportation.<sup>1154</sup> In turn, the increase in cases of sexual violence against women deprived of liberty over the last four years is particularly troubling. There have been reports of female prisoners becoming pregnant as a result of abuse committed by both prison guards and other inmates, due to the lack of effective separation between men and women. Added to this are the aforementioned cases of sexual exploitation of incarcerated women.<sup>1155</sup>

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<sup>1151</sup> Information provided to the IACHR during a meeting with civil society organizations on persons deprived of liberty held during the *on-site* visit on July 23, 2024.

<sup>1152</sup> Testimony of a person deprived of liberty at the Cobán Women's Preventive Detention Center received by the IACHR during its *on-site* visit, July 23, 2024.

<sup>1153</sup> Testimony of a person deprived of liberty at the Zone 18 "Santa Teresa" Preventive Detention Center received by the IACHR during its *on-site* visit, July 23, 2024.

<sup>1154</sup> Testimony of a person deprived of liberty at the Zone 18 "Santa Teresa" Preventive Detention Center received by the IACHR during its *on-site* visit, July 23, 2024.

<sup>1155</sup> Information provided to the IACHR during a meeting with civil society organizations on persons deprived of liberty held during the *on-site* visit on July 23, 2024. See also the section on challenges in the area of security and violence.

600. The IACtHR reiterates that it is the State's unavoidable obligation to adopt measures with a differentiated approach that address the vulnerability of women deprived of liberty and the specific violations of their rights resulting from incarceration. These measures must consider the intersectionality of risk factors that aggravate their situation and include concrete actions to protect them from all forms of violence and discrimination. Likewise, the State must guarantee, among other things, comprehensive access to sexual and reproductive health services and the provision of basic hygiene supplies.<sup>1156</sup>

**b) *Children living with their mothers in prison***

601. Approximately 60,000 children and adolescents have a family member who is incarcerated, of whom nearly 100 reside in prisons with their mothers. The Commission appreciates that a budget allocation has been made to improve their conditions.<sup>1157</sup> In this regard, food is provided by the Secretariat of Social Works of the Wife of the President of the Republic (SOSEP).<sup>1158</sup> They also receive pediatric care from specialized personnel who, in the case of "Santa Teresa," visit three times a week. Medicines are received through donations.<sup>1159</sup>

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<sup>1156</sup> Similarly, see IACtHR, [Report on Women Deprived of Liberty in the Americas](#), OEA/Ser.L/V/II., Doc. 91/23, March 8, 2023, para. 121, and Chap. III.

<sup>1157</sup> Information provided to the IACtHR during a meeting with civil society organizations on persons deprived of liberty held during the *on-site* visit, July 23, 2024.

<sup>1158</sup> Testimony of a person deprived of liberty at the Zone 18 "Santa Teresa" Preventive Detention Center received by the IACtHR during its *on-site* visit, July 23, 2024. In this regard, see: Statement by Colectivo Artesana, Colectivo Artesana Twitter account (@casaartesana), [post dated May 12, 2022](#); Statement by Colectivo Artesana, Colectivo Artesana Twitter account (@casaartesana), [May 21, 2022 post](#); and Prensa Libre, [PGN denounces failure to provide food to minors living with mothers in prison](#), May 26, 2022.

<sup>1159</sup> Information provided to the IACtHR during a meeting with prison authorities at the Zone 18 "Santa Teresa" Preventive Detention Center held during the *on-site* visit, July 23, 2024; and Testimony of a person deprived of liberty in the Zone 18 "Santa Teresa" Preventive Detention Center received by the IACtHR during its *on-site* visit, July 23, 2024.

602. In terms of space, in the main women's prisons—such as the one visited, Santa Teresa—there are areas set aside for mothers who live with their young children, where they can stay from eight months to four years of age, and which are equipped with toys, games, and audiovisual material. There, the children are cared for by “caregiving mothers,” in the absence of teaching staff.<sup>1160</sup> Although these conditions were observed in the facilities visited by the IACtHR, not all prisons have the same resources and services. On the contrary, most detention centers lack spaces that are adequate for the needs of this population.<sup>1161</sup>

603. The IACtHR emphasizes that children living with their mothers in prison have not committed any unlawful act and, therefore, should not be subject to punitive action by the State. Consequently, States must guarantee an adequate environment within prisons that allows them to exercise the same rights as those who grow up in the community.<sup>1162</sup>

**c) Persons with disabilities**

604. Persons with physical disabilities in Guatemalan prisons face serious limitations due to the lack of accessible infrastructure. Many depend on wheelchairs to get around, but the lack of adaptations prevents them from moving within the facilities. This restricts their access to essential spaces, such as dormitories, toilet areas, and other internal modules or wings. In addition, the prison system lacks an adequate supply of medicines, particularly affecting those with diabetes, hypertension, or other chronic diseases.<sup>1163</sup>

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<sup>1160</sup> Information provided to the IACtHR during a meeting with prison authorities at the Zone 18 “Santa Teresa” Preventive Detention Center held during the *on-site* visit on July 23, 2024.

<sup>1161</sup> Information provided to the IACtHR during a meeting with civil society organizations on persons deprived of liberty held during the *on-site* visit on July 23, 2024.

<sup>1162</sup> IACtHR, [Report on Women Deprived of Liberty in the Americas](#), OEA/Ser.L/V/II., Doc. 91/23, March 8, 2023, para. 172.

<sup>1163</sup> CALDH, et al., Ref. Submission of information on the human rights situation in Guatemala in the context of the *on-site* visit, June 11, 2024, on file with the IACtHR, p. 24.

605. In view of the above, the Commission urges Guatemala to implement measures to ensure conditions of detention that are compatible with human dignity and allow persons with disabilities who are deprived of their liberty to exercise their rights on an equal basis with the rest of the population.

**d) *LGBTI persons***

606. The State reported that the Department of Vulnerable Groups of the Prison System monitors the needs of LGBTI persons deprived of liberty. In this context, an agreement is being signed for inter-institutional work in this area, with the support of civil society organizations, and awareness-raising workshops are being held to prevent discriminatory behavior in the prison system.<sup>1164</sup>

607. LGBTI persons deprived of liberty face an exacerbated context of discrimination and violence due to prejudice. According to information provided by the Ministry of the Interior, 239 persons deprived of liberty identified as lesbian, gay, bisexual, or queer. No information was provided on the number of transgender, non-binary, or gender-diverse persons.<sup>1165</sup> According to public reports, by the end of 2020, the prison system reported 99 transgender people detained in prisons, most of them for minor offenses. A report from the same year shows that there is no accommodation policy for transgender people in the country and that most transgender women are housed in men's prisons.<sup>1166</sup> According to testimony from civil society, transgender women held in men's prisons are mistreated, have their hair cut, and are restricted in expressing their gender identity.<sup>1167</sup>

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<sup>1164</sup> State of Guatemala, Supplementary and updated information for the *on-site* visit, Report of the General Directorate of the Penitentiary System, March 10, 2025, on file with the IACtHR.

<sup>1165</sup> Ocote, [Las “saladas” del penal](#), March 10, 2021.

<sup>1166</sup> Wola et al, [Trans women deprived of liberty: invisibility behind walls](#), 2020, pp. 7, 13-15.

<sup>1167</sup> Meeting with civil society organizations on women and LGBTI persons, July 22, 2024.

#### **4. Deprivation of liberty in facilities run by the PNC**

608. As noted, nine detention facilities are run by the National Civil Police<sup>1168</sup>, where, according to data compiled by civil society, as of July 2024, 717 people were being held.<sup>1169</sup> According to the same source, of the nine sites, three operate in police stations<sup>1170</sup>, two operate in "houses" declared "uninhabitable" by the National Coordinator for Disaster Reduction of Guatemala (CONRED)<sup>1171</sup>, and one site has a structure similar to that of a police station and has been declared closed by CONRED, but continues to operate.<sup>1172</sup> In this regard, the Commission reiterates its particular concern about the use of PNC headquarters, including police stations, as permanent detention centers, given the overcrowding in the country's prisons.<sup>1173</sup>

609. According to official data obtained during its visit, the Guatemalan Prison Service does not administer or control the detention facilities run by the PNC. Furthermore, it also lacks complete information on the persons held in these facilities.<sup>1174</sup> This lack of supervision, control, and attention to persons deprived of liberty in these spaces translates into multiple challenges in the exercise of their rights. Civil society informed this Commission about the deplorable infrastructure and inadequate and unsanitary conditions that characterize these spaces. Even the "Segunda Estación Presidios San Marcos" for

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<sup>1168</sup> Information provided to the IACtHR during a meeting with the General Directorate of the Penitentiary System held during the on-site visit, July 23, 2024.

<sup>1169</sup> Colectivo Artesana, Prisons under the responsibility of the PNC, July 2024, on file with the IACtHR.

<sup>1170</sup> These are the Huhuetenango Men's Preventive Center, the Jalapa Public Prison for Men, and the Chuemekena Men's and Women's Preventive Center in Totonicapan.

<sup>1171</sup> These are the Huehuetenango Women's Detention Center and the women's house in Jalapa.

<sup>1172</sup> In particular, the Prison Unit of the Department of Baja Verapaz.

<sup>1173</sup> IACtHR, [Situation of Human Rights in Guatemala](#), OEA/Ser.L/V/II, Doc. 208/17, December 31, 2017, para. 422.

<sup>1174</sup> Information provided to the IACtHR during a meeting with the General Directorate of the Penitentiary System held during the on-site visit, July 23, 2024.

women, which operates on the second floor of a center run by the Prison Service, lacks its own bathrooms, forcing women to relieve themselves in buckets because they are only taken to the center's bathroom once a day. Similarly, the "Unidad de Presidios del Departamento de Baja Verapaz" in Salama lacks bathrooms for women, who must therefore go to the men's area to use the toilet.<sup>1175</sup>

610. Based on the foregoing, the Commission urges the State of Guatemala to take immediate measures to guarantee the rights of all persons detained in facilities under the responsibility of the PNC. This includes ceasing the use of police stations or police headquarters as places of permanent accommodation for persons deprived of liberty; transferring persons detained in PNC facilities to centers under the jurisdiction of the Penitentiary System, provided that these are not overcrowded and meet the necessary conditions to ensure dignified treatment; or releasing this population.

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<sup>1175</sup> Colectivo Artesana, Prisons under the responsibility of the PNC, July 2024, on file with the IACtHR.

# **CONCLUSIONS AND RECOMMENDATIONS**

## CONCLUSIONS AND RECOMMENDATIONS

### A. Conclusions

611. Guatemala is undergoing a profound institutional crisis that threatens governance and the democratic rule of law. This stems from a seriously deteriorated system of checks and balances, as a result of the control of some state institutions —among them the Office of the Prosecutor—by external actors, including political and economic groups, united around interests aimed at perpetuating privileges and ensuring impunity. This was evident in the actions promoted by the Attorney General and supported by some justice operators that called into question the results of the 2023 general elections and that continue to seek to undermine the democratic mandate and legitimacy of the government. This situation is only possible due to the lack of independence of the justice system in Guatemala. In this context, the findings of this report are consistent with the reasons for including Guatemala in Chapter IV.B of the IACtHR Annual Report from 2021 to 2023, related to the weakening of the rule of law and the State's failure to fulfill its duty to combat impunity.

612. During its on-site visit, the IACtHR observed a scenario of connivance between the Legislative and Judicial branches, aimed at restricting the authority of the Executive Branch and preserving the status quo. This situation is reflected in the Congress of the Republic, where certain groups resist breaking with what in Guatemala is identified as the “pact of the corrupt” and move forward with a political agenda based on democratic principles and respect for human rights. It is urgent that the Legislative Branch assume its responsibility in the recovery of democracy by promoting structural reforms that guarantee judicial independence, equality and non-discrimination, and the protection of the human rights of the population.

613. The IACtHR is deeply concerned about the manipulation of the justice system, which is the result of a series of actions and decisions that reversed the progress made during the CICIG's operation. In addition, the IACtHR observed continued undue

interference in the selection and appointment processes for senior judicial authorities; setbacks in the judicial system due to the concentration of administrative functions in the Supreme Court of Justice; and the absence of guarantees of independence for the Constitutional Court, evidenced by decisions that have been widely questioned for favoring particular interests.

614. The IACtHR warns that the Public Prosecutor's Office has deviated from its constitutional and legal mandate to exercise criminal prosecution independently, autonomously, and objectively, in defense of the general interest of the population. In recent years, this institution has been co-opted and dismantled to operate as an instrument of selective persecution. The special prosecutor's office that led emblematic cases to combat impunity now acts to shield the status quo and persecute those who question it. Thus, Guatemala went from being an international benchmark in the fight against corruption—thanks to the coordinated work between the CICIG and the Public Prosecutor's Office, which allowed criminal networks in the highest echelons of power to be brought to justice—to becoming a clear example of the manipulation of the justice system through widespread criminalization for the purposes of impunity.
615. Indeed, the IACtHR uncovered extensive evidence to demonstrate that criminalization has become a widespread practice in Guatemala. Initially, it was directed as retaliation against justice operators and former CICIG officials who affected the interests of groups and elites seeking to promote impunity. However, it has spread to lawyers who provide legal defense to criminalized individuals, indigenous communities, peasant and union communities, journalists, students and academic staff, public officials, including justice operators, the former human rights ombudsman, and even the President and Vice President of the Republic. Ultimately, this practice has a deterrent and collective effect on society, which has encouraged self-censorship in the civic sphere and even forced exile.
616. The IACtHR notes that the instrumentalization of criminal law has been made possible by the collusion of private interests with the

Public Prosecutor's Office and sectors of the judiciary who, under the guise of legality, have contributed to legitimizing selective criminal prosecution without due process and through arbitrary deprivation of liberty. At the same time, justice officials who have acted in accordance with the law have faced harassment, stigmatization, threats, arbitrary transfers, and unfounded criminal proceedings, forcing many of them into exile.

617. Structural impunity for large-scale corruption and crimes committed during the internal armed conflict has been exacerbated by the lack of independence of the justice system. Since 2017, the IACtHR has observed a pattern of obstruction, shelving, and stagnation of transitional justice processes, judicial decisions contrary to international obligations, and the constant threat of initiatives to establish amnesty laws. In addition, the dismantling of the institutions created by the Peace Accords has compromised the State's ability to respond to victims' demands and fulfill its international commitments regarding truth, justice, reparation, and guarantees of non-repetition.
618. Guatemala continues to face significant challenges in combating poverty and inequality, as well as in guaranteeing the full exercise of DESCA. These include the concentration of economic power, a weak state structure with limited tax collection capacity, high levels of corruption, and a context of discrimination, violence, racism, and exclusion of indigenous peoples and Afro-descendant and rural communities. As a result, the IACtHR observed severe restrictions on access to essential rights such as water and sanitation, health, education, food, work, social security, and the right to a healthy environment.
619. The IACtHR observes that indigenous peoples live in extremely unfavorable conditions compared to the rest of the population, with limited access to basic services, electricity, sanitation, decent housing, employment and productive opportunities, and obstacles to access to justice. This situation reflects the prevalence of exclusionary economic, cultural, and social relations that gave rise to the internal armed conflict. This is exacerbated by the impact of

natural disasters and climate change, the perpetuation of poverty and high rates of migration, as well as the dispossession of land and natural resources. This situation is facilitated by the lack of legal certainty and the actions of private companies and landowners who, through the actions of the judiciary and the Public Prosecutor's Office, carry out the appropriation and forced evictions of their ancestral lands.

620. There also remains a context of exclusion in the field of communication, reflected in the legal and practical restrictions faced by indigenous community radio stations in accessing the radio spectrum and operating with legal certainty, which limits the exercise of their freedom of expression.
621. The IACtHR recognizes some institutional advances in the protection of human rights defenders. However, it notes that their work continues to be a high-risk activity in the country. As discussed in this report, serious patterns of violence and abuse of criminal law as a mechanism of harassment, intimidation, and obstruction continue to exist, particularly against indigenous and peasant communities and defenders of land, territory, and the environment. Similarly, women defenders face gender-based violence and patterns of criminalization that affect them in a differentiated manner. In this context, the effective implementation of a protection policy for defenders, in accordance with the ruling of the Inter-American Court of Human Rights, remains an outstanding obligation of the Guatemalan State.
622. Furthermore, people of African descent, women, LGBTI persons, children and adolescents, older persons, persons with disabilities, persons in situations of human mobility, and persons deprived of liberty experience living conditions marked by inequality, exclusion, and violence. Although the IACtHR learned of initiatives that address their specific needs, the fact is that the Guatemalan State continues to face challenges in guaranteeing the protection of their rights on an equal footing and through the strengthening of democratic institutions and the fight against corruption.

623. The Commission recognizes that the transition of government represented not only the triumph of the popular will expressed at the polls, but also a historic opportunity to restore democratic principles and the rule of law in Guatemala. To achieve this, it is essential to strengthen access to justice, accountability, and the fight against corruption and impunity.
624. The IACtHR observes that the justice system does not fulfill its role of providing effective judicial protection of the rights of groups that have historically experienced discrimination. On the contrary, it has been used to criminalize those who demand access to their rights, to protect certain private interests, and to ensure impunity for human rights violations.
625. The IACtHR reaffirms the urgent need to advance structural reforms of the justice system that guarantee judicial independence, establish processes for selecting and appointing authorities in accordance with international standards of merit, objectivity, and transparency, as well as mechanisms for accountability in cases of arbitrary use of criminal law. In this regard, the upcoming selection processes represent an opportunity to restore the legitimacy of the judicial system and strengthen democratic institutions.
626. Finally, the IACtHR reiterates its commitment to accompany the State of Guatemala in restoring democratic institutions based on the protection and guarantee of human rights, the fight against impunity, as well as historical memory, comprehensive reparation for victims, and compliance with the commitments of the Peace Accords. The IACtHR emphasizes that this process requires political will on the part of the three branches of government, which transcends the governments in power, as well as the participation of Guatemalan civil society and the strong support of the international community.

## **B. Recommendations**

627. In the case of Guatemala, the IACtHR recalls that the American Convention is part of the constitutional framework recognized in

Articles 44 and 46 of its national Constitution. Therefore, all branches of government must comply with the obligations voluntarily assumed in the international human rights instruments to which it is a party. In this regard, and in accordance with Article 41 of the American Convention on Human Rights, the following recommendations are made to the State of Guatemala:

### **Corruption and human rights**

1. Develop and implement a national and inter-institutional action plan to prevent, investigate, and punish corruption, with defined mechanisms, results, and deadlines. In particular, the plan should strengthen the legal framework, transparency and access to information, audit and accountability systems in entities, as well as guarantee the protection of those leading investigations and proceedings, and the training of civil servants on the effects of corruption.

### **Citizen security**

2. Implement a comprehensive policy on democratic citizen security with a human rights approach. To this end, it is recommended to strengthen inter-institutional coordination, provide sufficient resources to the competent institutions—in particular the National Civil Police—prioritize preventive measures, and incorporate gender, ethnic, territorial, and intersectional approaches that address the realities of the departments with the highest rates of violence and historically excluded communities.

### **Administration of Justice**

3. Adopt the necessary legal reforms to guarantee the separation of the administrative and jurisdictional functions of the Supreme Court of Justice, in particular by strengthening and ensuring the full autonomy of the Judicial Career Council, as originally established in Decree 32-2016, as well as by strengthening the autonomy and independence of the Supreme Electoral Tribunal.

4. Adopt legal reforms to ensure that the selection and appointment processes for all authorities elected through nomination commissions—including the Supreme Court of Justice and Courts of Appeals, the Attorney General of the Republic and the Head of the Public Prosecutor's Office, and the Supreme Electoral Tribunal—are carried out in accordance with inter-American standards, based on criteria of merit, professional capacity, and independence, and free from political interference. Among other things, it is suggested that the State:
  - a. Establish regulatory measures that:
    - i) ensure the duty to provide reasons for selection and appointment decisions made by nomination committees and by the competent authorities in each case;
    - ii) expressly prohibit members of nomination committees from simultaneously participating as voters and candidates; and
    - iii) regulate the conduct of technical tests and public hearings or interviews that allow citizens, social organizations, and other actors to learn about the selection criteria, challenge candidacies, and submit observations.
  - b. Implement the necessary measures so that nomination committees:
    - i) define objective and clear evaluation methodologies and criteria, with pre-established scoring tables that cannot be modified during the process;
    - ii) ensure the publicity and transparency of all their sessions, acts, meetings, agendas, and interviews; and
    - iii) refrain from submitting lists of candidates until all challenges have been resolved, always complying with the duty to provide reasons.

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- c. Adopt the necessary measures to ensure that the competent authorities in the final appointment guarantee that voting or decisions are carried out in public and transparent sessions, and refrain from selecting candidates who are widely questioned for corruption, conflict of interest, or lack of suitability, as well as those whose appeal process has not been previously resolved.

### **Administration of justice system**

5. Cease the misuse of the criminal justice system through the manipulation of the punitive power of the State by state and non-state actors against justice operators, human rights defenders, legislators, journalists, students, teachers, members of political parties, public officials, members of indigenous, peasant, and union organizations, as well as members of at-risk groups identified in this report. To this end, the following is suggested:
  - a. Identify, through a registry, cases of criminalization based on unfounded complaints, including disaggregated statistics on their current status, the charges filed, and the judges in charge. This registry should also include data on the use of pre-trial detention over the past seven years, in order to assess its excessive and punitive application, particularly against human rights defenders, journalists, and Indigenous persons.
  - b. Order the dismissal and immediate closure of these cases.
  - c. Review the mechanisms for assigning cases in the Judiciary and adopt the necessary corrective measures to ensure transparency and objectivity in the distribution of files.
6. Conduct an independent review of the functioning of the Public Prosecutor's Office and its impact on human rights over the last seven years, with a view to proposing reforms to the law establishing it, to guarantee its independence and accountability in accordance with the principle of checks and balances, and to ensure that its

functioning complies with inter-American human rights standards. To this end, it is suggested that the review include the following aspects:

- a. Administrative management: review of the criteria and procedures for the appointment, transfer, and removal of prosecutors and technical staff. Ensuring an adequate appointment process is related to the obligation to have reasonable and objective criteria so that the persons appointed have the integrity, suitability, and appropriate qualifications to perform the duties of the position. Similarly, the review should examine the allocation of budgetary and human resources, as well as the effective functioning of specialized units and prosecutors' offices. The situation of the prosecutorial career, the disciplinary regime, and the exercise of freedom of association should also be analyzed to verify whether they function as guarantees of independence, merit, and stability.
- b. Criminal policy: review of the criteria that guide the exercise of criminal prosecution and compliance with the principles of objectivity, impartiality, legality, and respect for human rights, in particular with a view to identifying practices aimed at criminalizing at-risk groups or promoting impunity.
- c. Investigation: the independent review should include the evaluation of the effectiveness, independence, and thoroughness of investigations conducted by the Public Prosecutor's Office. Among other aspects, the existence of practices of undue delay, judicial harassment, pressure or interference with the judiciary, as well as the misuse of procedural and criminal figures that may distort their purpose and affect due process guarantees.

Based on the results of this review, the State should formulate and implement corrective measures aimed at ensuring accountability and institutional strengthening through a criminal policy with a human rights approach.

7. Reform or repeal legal and procedural provisions that are contrary to the inter-American standards outlined in this report, such as judicial secrecy and certain criminal offenses. In particular, repeal those that are used selectively or repeatedly to persecute the legitimate exercise of rights and those with ambiguous wording that have an intimidating or inhibiting effect.
8. Take measures to guarantee the exercise of the right to defense and the right to freedom of expression and prevent the abusive use of criminal law. To this end:
  - a. Review the actions of judges in identified cases of criminalization and initiate disciplinary proceedings in accordance with national legislation and international standards.
  - b. Establish expedited procedures to dismiss judicial or administrative actions that are merely intended to intimidate, silence, or wear down the persons subject to prosecution.
  - c. Implement training and capacity-building programs for police, prosecutors, and judicial authorities aimed at preventing and avoiding practices of judicial harassment.
9. Create the conditions for the care and safe return of exiled persons. To this end, we suggest:
  - a. The immediate cessation of arrest warrants, criminal proceedings, and other forms of institutional persecution.
  - b. Adopt a comprehensive reparation plan with a differentiated approach, including professional restitution, guarantees of non-repetition, moral reparation, and access to psychosocial care.
  - c. The active participation of exiled persons in the formulation and implementation of these measures.

## **Memory, truth, justice, and reparation**

10. Restore the institutional framework derived from the Peace Accords. In particular, establish the National Plan for the Dignification of Victims of the Internal Armed Conflict and Reparation through the design and implementation of a line of action with differentiated gender and ethnic-racial approaches, with an adequate budget for its operation and sustainability, and with defined short-, medium-, and long-term expected results, as well as an internal evaluation and monitoring plan.
11. Create a national institution dedicated to the search for victims of forced disappearances and provide it with sufficient resources to carry out its mandate.
12. Complete the classification and digitization of archives related to the internal armed conflict within a reasonable time frame by the National Civil Police Archive, ensuring sufficient human and financial resources for this purpose.
13. Strengthen the Human Rights Prosecutor's Office and, in particular, its Special Unit for Armed Conflict Cases. To this end, it is suggested to ensure: a) the reinstatement and/or appointment, as well as the job stability of prosecutors with the integrity, suitability, and appropriate qualifications to perform their respective duties; and b) the provision of adequate human, technical, security, and financial resources for the investigation of serious human rights violations and serious crimes committed during the internal armed conflict.

## **Economic, social, cultural and environmental rights**

14. Adopt a progressive, redistributive, and transparent fiscal policy that ensures the mobilization of the maximum available resources and is aimed at reducing poverty and structural inequality. This policy should incorporate effective mechanisms for transparency, accountability, and social participation.

15. Pass a General Water Law that expressly recognizes water as a common good and a human right, and establishes a governing authority with clear powers to allocate water flows, issue licenses, control discharges, and guarantee universal, safe, affordable, and quality access, with a differentiated approach for rural and urban areas and indigenous peoples. The legislation should incorporate measures for adaptation to climate change and protection of the environment.
16. Design and implement comprehensive plans for mitigation, adaptation, and resilience in the face of the climate emergency, with a focus on human rights and climate justice. These plans should prioritize the reduction of activities that cause environmental degradation, the restoration of strategic ecosystems, and the prevention of risks to the most vulnerable populations. At all stages, the effective and differentiated participation of indigenous peoples, peasant communities, and people in situations of poverty or social exclusion must be guaranteed.
17. Implement measures to guarantee the protection of human rights in the context of business activities, ensuring access to information, participation, and access to justice for communities, especially indigenous peoples, Afro-descendants, and rural communities, including concrete measures for prevention, punishment, and non-repetition. It is the responsibility of the State to guarantee effective regulatory frameworks, adequate oversight, transparency in environmental information, and effective participation of affected communities, in accordance with the principles of precaution, sustainability, and applicable inter-American standards.

### **Indigenous peoples**

18. Implement a culturally appropriate national mechanism for the recognition, remediation, and collective titling of ancestral and/or traditionally occupied lands, in accordance with international standards. This mechanism should have clear regulations, an operational budget, and an action plan with concrete activities, including those aimed at immediately ending the inhumane practice

of carrying out forced evictions and completing the processes of recognition, regularization, and collective titling of the lands, territories, and natural resources of Indigenous and tribal peoples.

19. Adopt regulations on consultation protocols, in accordance with current international standards, in order to obtain the free, prior, and informed consent of indigenous and tribal peoples on measures that could directly or indirectly impact them.
20. Adapt internal regulations to: (i) legally recognize community radio stations; (ii) ensure the reservation of radio spectrum for their proper functioning; (iii) establish a simplified procedure for licensing and equitable access to the media; (iv) prevent discrimination and undue concentration of media ownership, in accordance with the standards set out in the judgment of the Inter-American Court of Human Rights in the case of the Maya Kaqchikel Indigenous Peoples of Sumpango v. Guatemala.

### **People of African descent**

21. Incorporate the variable of African descent into national, regional, and local data collection systems, with subcategories for self-identification (Garifuna, English-speaking Creole, and Afro-Guatemalan), as a basis for public policy design.
22. Ensure the effective political and community participation of Garifuna, Creole, and Afro-Guatemalan populations, with adequate representation and a gender and intercultural perspective, and adopt urgent measures in health, education, decent work, and food security to ensure that young people remain in their territories.

### **Human rights defenders**

23. Urgently approve and implement a public policy to protect human rights defenders in compliance with the ruling issued by the Inter-American Court of Human Rights in 2014.

24. Provide training on human rights and standards regarding the rights of defenders to justice operators, in order to prevent the unjustified use of criminal law against them, including the excessive use of arrest warrants and prolonged pretrial detention as a mechanism of intimidation, punishment, or retaliation against these groups.
25. Ensure the application of Instruction 5-2018, which provides for the Protocol for the Investigation of Crimes committed against human rights defenders, to guarantee that the investigation of these crimes is carried out in accordance with the relevant standards.

### **Children and adolescents**

26. Adopt measures to prevent all forms of violence against children and adolescents in the family, community, and social environment, including immediate actions to protect and restore the rights of victims, with special attention to those who have been recruited by groups linked to organized crime, and incorporating budget allocation, inter-institutional coordination, and monitoring and evaluation mechanisms.
27. Establish a national system for the comprehensive protection of children and adolescents that is effective, coordinated, and articulated among all relevant institutions, based on full respect for the human rights of this population. Likewise, guarantee the adequate allocation of human, material, and financial resources for its sustainable operation, and implement mechanisms for inter-institutional coordination and periodic evaluation to ensure that all ministries and state entities fully comply with their responsibilities in the protection of children and adolescents.
28. Adopt a comprehensive strategy to progressively eliminate the institutionalization of children and adolescents by strengthening deinstitutionalization processes, developing follow-up protocols after family reunification, and providing adequate resources to support families. Ensure periodic reviews of foster care and protection

measures, prioritizing family reunification when feasible and in the best interests of the child.

## **Women**

29. Adopt and implement legislative, judicial, institutional, and public policy measures to prevent, punish, and redress gender-based violence against women, girls, and adolescents, including:
  - a. The incorporation of lack of consent, rather than the use of force, as the central element in the classification of sexual offenses, in all cases and regardless of age.
  - b. The establishment of an official system for the generation, collection, and analysis of disaggregated statistical data on gender-based violence against girls and adolescents, with an emphasis on sexual violence, human trafficking, and disappearances, to enable the design of effective prevention actions and the evaluation of their impact.
  - c. Strengthening the technical and financial capacity of CONAPREVI, SEPREM, DEMI, and CAIMUS, ensuring the timely and sufficient allocation of resources to enable them to fulfill their mandates and expand the national coverage of their services.
  - d. Increasing the territorial presence of justice institutions, including prosecutors' offices, specialized courts and tribunals, OAVs, and INACIF headquarters.
  - e. Implementing a mandatory and periodic training plan for public officials on addressing violence and discrimination against women, girls, and adolescents, with a gender and intersectionality approach, subject to continuous evaluation and updating.
  - f. The implementation of a national plan for the investigation and prosecution of sexual crimes, femicide, and violence against women that incorporates a gender and intersectionality approach, is based on an objective assessment of the main

obstacles to access to justice, establishes specific goals and indicators aimed at reducing impunity, and includes mechanisms for periodic monitoring and evaluation. Sufficient technical, human, and financial resources must be allocated to ensure its effective implementation.

- g. The implementation of a national program for the prevention of sexual violence, particularly against girls and adolescents, that includes the rehabilitation/reintegration of sexual offenders, as well as the participation of men and youth in general.

30. Adopt and implement legislative and public policy measures to prevent and address pregnancy among girls and adolescents, including:

- a. The adoption and implementation of a national public policy for the prevention of pregnancy in girls and adolescents, with a specific and sufficient budget allocation, and with the objectives of guaranteeing universal access to comprehensive sexuality education in accordance with inter-American standards, as well as ensuring effective access to family planning information and services, modern contraceptive methods, emergency contraception, and safe abortion.
- b. Strengthening the regulatory framework on sexual and reproductive rights, in accordance with inter-American standards, through the adoption of legislation on comprehensive sexuality education that guarantees its implementation at all educational levels; The elimination of legal restrictions that impede access to safe abortion, in accordance with the principle of best interests and the right to health; and The non-adoption of legislative or policy initiatives that restrict access to sexual and reproductive health information or services.
- c. The elimination or modification of requirements that hinder access to financial support and health, education, and justice services by girls and adolescents who are pregnant as a result of

sexual violence, as well as the expansion of coverage of these benefits and services to adolescents over the age of 14.

31. Adopt and implement a national public policy on sexual and reproductive health aimed at reducing maternal mortality, including:
  - a. Expanding coverage and strengthening health services throughout the country, incorporating and supporting the work of traditional midwives.
  - b. The elimination of obstetric violence and discriminatory practices, especially against indigenous women; and
  - c. Effective access to antiretroviral drugs and adequate care to prevent mother-to-child transmission of HIV.

### **LGBTI persons**

32. Effectively implement a national plan to eradicate violence based on prejudice against LGBTI persons. This plan should include technical guidelines for criminal and forensic investigations for the Public Prosecutor's Office and INACIF, in order to ensure due diligence in cases where crimes based on prejudice are suspected.
33. Establish a national system for collecting and analyzing data on violence and discrimination against LGBTI persons, including: the number of complaints, open, closed, or convicted court cases; and data on experiences of discrimination in education, health, and public services. The data should be disaggregated by gender, sexual orientation, gender identity and expression, sexual characteristics, and other intersectionalities such as ethnic-racial origin, age, immigration status, or disability. This system should serve as the basis for the development, monitoring, implementation, and evaluation of public policies aimed at guaranteeing the rights of LGBTI persons.
34. Adopt or amend national legislation to guarantee equality and non-discrimination for LGBTI persons on the basis of their sexual

orientation, gender identity, gender expression, or diverse sexual characteristics. The full exercise of their economic, social, cultural, and environmental rights should be promoted, as well as the legal recognition of their family ties and gender identity, in accordance with inter-American standards.

### **Persons with disabilities**

35. Eliminate, repeal, or modify any rule that partially or totally limits the legal capacity of persons with disabilities, and mainstream the social and human rights model in laws, judicial decisions, and public policies related to their rights.
36. Design and implement statistical systems with disaggregated data on persons with disabilities that reflect their living conditions in the areas of work, education, health, social security, access to justice and the criminal justice system, territorial and environmental rights, housing, and food security. These data should serve as the basis for the design, monitoring, and evaluation of public policies aimed at this population.
37. Develop programs that promote autonomous and independent living for persons with disabilities, including care and support systems, as well as metrics to evaluate progress in the implementation of these measures.

### **Human mobility**

38. Adopt a national public policy aimed at preventing the structural causes of forced migration or, where appropriate, ensuring the reintegration of people returning to the country. This measure should be based on a robust and objective internal diagnosis and should include lines of action to be carried out by all national entities competent to address the issue, expected short-term, medium-term-, and long-term results, and internal monitoring and evaluation mechanisms.
39. Adopt and implement a protocol to guarantee access to justice, including cross-border justice, for persons in human mobility,

regardless of their immigration status, with special attention to victims of rights violations in the country. To this end, it is appropriate for the protocol to include the provision of free legal advice, training for justice operators on the rights of persons in human mobility, and the creation of accessible reporting mechanisms at border points.

40. Develop and implement national and regional mechanisms to search for missing, unlocated, or kidnapped persons in transit, regardless of their immigration status. These mechanisms may include, among others, inter-institutional coordination protocols and public systems for registering and tracking cases.

### **Persons deprived of liberty**

41. Adopt a national criminal policy aimed at reducing incarceration and, consequently, decreasing overcrowding. The formulation of this policy should be based on a reliable prior assessment of the current situation and clearly indicate the actions to be implemented and the expected results. To this end, the policy should contain concrete actions aimed at:
  - a. Reducing the use of pretrial detention and ensuring its strict application in accordance with the principles of exceptionality, legality, proportionality, and reasonableness, which includes reviewing the situation of persons currently in pretrial detention.
  - b. Repealing criminal legislation that prevents the application of alternatives to pretrial detention based on the type of crime.
  - c. Promoting the creation and application of alternatives to both pretrial detention and prison sentences, ensuring a gender perspective and differentiated and multicultural approaches.
  - d. Remove the requirement to pay fines or any other financial requirement as a condition for regaining freedom, either early or upon completion of the prison sentence; and

- e. Immediately release all persons who have served their entire prison sentences, regardless of their ability to pay fines imposed as an additional penalty.
- 42. Guarantee conditions of detention that are compatible with human dignity and respect for differentiated approaches based on gender, disability, or any other risk factor. To this end, it is essential to ensure that all persons detained in the country are housed in centers under the responsibility of the Penitentiary System, as well as to guarantee in these spaces:
  - a. The adoption of measures to combat corruption.
  - b. Adequate infrastructure in accordance with the size and needs of the prison population, and in hygienic and safe conditions.
  - c. Adequate, specialized, and quality medical care.
  - d. Implement effective social reintegration programs, with an emphasis on work and education, in which all persons deprived of liberty who so desire can participate, regardless of the crime for which they are detained;
  - e. Ensure that children living with their incarcerated mothers are able to exercise their rights on an equal footing with those living in the community, particularly regarding health, education, and recreation; as well as guarantee that they have spaces adapted to their needs and designated exclusively for their stay with their mothers; and,
  - f. Adopt measures to ensure that detainees can receive visits in safe conditions, especially from their minor children.

### **Ratification of International Human Rights Instruments**

- 43. Accede to the inter-American human rights instruments that have yet to be ratified, in particular the Inter-American Convention on Protecting the Human Rights of Older Persons; the Inter-American

Convention against All Forms of Discrimination and Intolerance; and the Inter-American Convention against Racism, Racial Discrimination, and Related Forms of Intolerance.



## **ANNEX: PARTIALLY DISSENTING REASONED OPINION**

Commissioner Carlos Bernal Pulido

With due respect to our colleagues and in accordance with Article 19.1 of the Rules of Procedure of the Inter-American Commission on Human Rights ("the Commission" or "the IACtHR"), exercising our right to freedom we submit this opinion on the report on the human rights situation in Guatemala, hereinafter "the Report." In this opinion I will refer to: (i) the fact that the Report contains considerations that disregard the inter-American legal framework and pose a risk to pregnant women; (ii) considerations related to sexual and reproductive education of children and adolescents; and (iii) observations regarding considerations on gender identity and other issues related to the LGBTI community.

### **I. The Report contains considerations that disregard the inter-American legal framework and pose a risk to unborn children**

Next, I will address the following issues: (i) the non-existence of the right to abortion and the scope of the part that can be played (leeway) by the state in its regulation; (ii) the lack of protection for the unborn; (iii) the erroneous use of the concept of forced maternity; and (iii) the analysis of obstetric emergencies.

#### **a) Non-existence of the right to abortion and state leeway with respect to the criminalization of abortion in its regulation**

Paragraphs 383, 385, 386, 453, and 454 of the Report describe alleged violations of the rights of women and girls due to the absolute prohibition of abortion, and refer to the term "criminalization of abortion". Indeed, paragraph 456 states:

"Specifically, the IACtHR urges the State to remove the legislative, public policy and other obstacles identified in this report that impede access to reproductive health information and services, and calls for the implementation of the World Health Organization guidelines on abortion care."

Along these lines, recommendations 24.a and b of the Report suggest that states should guarantee access to "safe abortion", including for girls and adolescents, and eliminate any obstacle to its practice.

On this point, without ignoring the sufferings, problems, and difficulties faced by women going through a crisis pregnancy, I believe that it is essential to explore comprehensive solutions for these circumstances. That being so, the majority's focus on abortion prevents it from addressing problems such as teenage pregnancy and sexual violence from a comprehensive perspective.

Furthermore, contrary to the State's obligations to guarantee women's rights and a life free from violence, as well as the obligation to guarantee life from conception, I emphasize, as I have done in multiple opinions<sup>1</sup>, that there are no binding sources in international law -and especially in the American Convention or other treaties that make up the Inter-American System- that contemplate (i) the so-called right to abortion or (ii) a correlative obligation for States to provide abortion services. That said, states have ample leeway - by virtue of the principles of subsidiarity or complementarity and representative democracy - to take measures to protect the life of the unborn child<sup>2</sup> including, although it is not the only means, the use of criminal law.

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<sup>1</sup> Explanation of vote. Annual Report 2023. Chapter IV.A [https://www.oas.org/en/iachr/docs/annual/2023/chapters/IA2023\\_Cap\\_4A\\_ENG.PDF](https://www.oas.org/en/iachr/docs/annual/2023/chapters/IA2023_Cap_4A_ENG.PDF); Explanation of vote. Annual Report 2023. Chapter V. El Salvador. [https://www.oas.org/en/iachr/docs/annual/2023/chapters/IA2023\\_Cap\\_5\\_ESalvador\\_ENG.PDF](https://www.oas.org/en/iachr/docs/annual/2023/chapters/IA2023_Cap_5_ESalvador_ENG.PDF); Explanation of vote. Annual Report 2023. Chapter IV.B. Venezuela. [https://www.oas.org/en/iachr/docs/annual/2023/chapters/IA2023\\_Cap\\_4B\\_Venezuela\\_ENG.PDF](https://www.oas.org/en/iachr/docs/annual/2023/chapters/IA2023_Cap_4B_Venezuela_ENG.PDF); Explanation of vote. Report on the Situation in Honduras - 2023. <https://www.oas.org/es/cidh/informes/pdfs/2024/informe-honduras.pdf>; Explanation of vote. Annual Report 2024, Chapter IV.A Venezuela. [https://www.oas.org/en/iachr/docs/annual/2024/chapters/IA2024\\_4B\\_VEN\\_EN.PDF](https://www.oas.org/en/iachr/docs/annual/2024/chapters/IA2024_4B_VEN_EN.PDF) Explanation of vote. Annual Report 2024. Chapter V. El Salvador. [https://www.oas.org/en/iachr/docs/annual/2024/chapters/IA2024\\_5\\_SLV\\_EN.PDF](https://www.oas.org/en/iachr/docs/annual/2024/chapters/IA2024_5_SLV_EN.PDF); Partial dissenting vote. Annual Report 2024 - Chapter IV.A Situation of human rights in the region - overview of the human rights situation by country. [https://www.oas.org/en/iachr/docs/annual/2024/chapters/IA2024\\_4A\\_EN.PDF#page201](https://www.oas.org/en/iachr/docs/annual/2024/chapters/IA2024_4A_EN.PDF#page201)

<sup>2</sup> ACHR Article 4.

Regarding the non-existence of the right to abortion, former I/A Court H.R. Judge Eduardo Vio Grossi established in his opinion partially dissenting from the judgment in the case of *Manuela et al. v. El Salvador* that:

"In this regard, it is indisputable that (...) there is no inter-American or international legal norm, whether conventional, international custom, or general principle of law, that recognizes abortion as a right. There are only resolutions of international bodies, most of which are made up of international officials and not representatives of States: decisions which, in addition to not being binding, are not interpretative of current international law but rather reflect aspirations for it to change in the direction they suggest."<sup>3</sup>

In fact, it should be noted that the Inter-American Court recently heard the case of *Beatriz vs. El Salvador*, in which the alleged existence of a "right to abortion" was claimed by the IACtHR and the victims' representatives. However, in the judgment, the Court did not establish the existence of such a right.<sup>4</sup> This is further evidence of the non-existence of a binding legal source from which an alleged right to abortion is derived.

That said, I emphasize that this leeway derived from the non-existence of a right to abortion and the convergence of competing rights is increased thanks to the fact that it is incumbent upon states to define punishable conducts and their consequences, and to the automatic referral made, according to the I/A Court H.R., by Article 7.2 of the American Convention to domestic law in matters related to deprivation of liberty -legal exception principle (*principio de reserva de ley*)- .<sup>5</sup>

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<sup>3</sup> Partially Dissenting Opinion of Judge Eduardo Vio Grossi, Inter-American Court of Human Rights, Case of *Manuela et al. v. El Salvador*: Judgment of November 2, 2021 ,(Preliminary Objection, Merits, Reparations, and Costs), paragraph 13

<sup>4</sup> I/A Court H.R. Case of *Beatriz et al. v. El Salvador*. Merits, Reparations, and Costs. Judgment of November 22, 2024. Series C No. 549.

<sup>5</sup> I/A Court H.R.. Case of *Romero Feris v. Argentina*. Merits, Reparations, and Costs. Judgment of October 15, 2019. Series C No. 391. Par. 77.

This is relevant if one bears in mind that, based on a close reading of Articles 31, 76, and 77 of the American Convention, it is only through consensus -- provided by the States signing and ratifying amendments or treaties -- that international obligations can arise that are in addition to those already contemplated in the ACHR.

In conclusion, international human rights law - and in particular the Inter-American System - does not recognize abortion as a right, nor does it impose an obligation on States to guarantee it or provide it as a service. On the contrary, the American Convention expressly protects life from conception, and grants the states leeway to adopt the measures they deem appropriate for its protection, within the framework of their democratic principles and legislative sovereignty. The true state response to violence, abandonment, or inequality suffered by girls, adolescents, and women cannot be the elimination of a human life, but the implementation of effective and comprehensive policies of prevention, support, and justice.

### **b) Lack of protection for the unborn in the Report**

Second, I note that, in this report, as in others in which I have expressed my opinion<sup>6</sup>, references to abortion ignore the other person whose right to life is also protected under the American Convention (*protegido convencionalmente*): the unborn person. Thus, they ignore the necessary balance that must exist between competing rights of all internationally protected persons. In this regard, it should be noted that pregnant women

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<sup>6</sup> Explanation of vote. Annual Report 2023.Chapter IV.A [https://www.oas.org/en/iachr/docs/annual/2023/chapters/IA2023\\_Cap\\_4A\\_ENG.PDF](https://www.oas.org/en/iachr/docs/annual/2023/chapters/IA2023_Cap_4A_ENG.PDF); Explanation of vote. Annual Report 2023. Chapter V. El Salvador. [https://www.oas.org/en/iachr/docs/annual/2023/chapters/IA2023\\_Cap\\_5\\_ESALVADOR\\_ENG.PDF](https://www.oas.org/en/iachr/docs/annual/2023/chapters/IA2023_Cap_5_ESALVADOR_ENG.PDF); Explanation of vote. Annual Report 2023. Chapter IV.B. Venezuela. [https://www.oas.org/en/iachr/docs/annual/2023/chapters/IA2023\\_Cap\\_4B\\_VENEZUELA\\_ENG.PDF](https://www.oas.org/en/iachr/docs/annual/2023/chapters/IA2023_Cap_4B_VENEZUELA_ENG.PDF); Explanation of vote. Report on the Situation in Honduras - 2023. <https://www.oas.org/es/cidh/informes/pdfs/2024/informe-honduras.pdf>; Explanation of vote. Annual Report 2024, Chapter IV.A. Venezuela. [https://www.oas.org/en/iachr/docs/annual/2024/chapters/IA2024\\_4B\\_VEN\\_ES.PDF](https://www.oas.org/en/iachr/docs/annual/2024/chapters/IA2024_4B_VEN_ES.PDF) Explanation of vote. Annual Report 2024. Chapter V. El Salvador. [https://www.oas.org/en/iachr/docs/annual/2024/chapters/IA2024\\_5\\_SLV\\_ES.PDF](https://www.oas.org/en/iachr/docs/annual/2024/chapters/IA2024_5_SLV_ES.PDF) Partial dissenting vote. Annual Report 2024 - Chapter IV.A. Situation of human rights in the region - overview of Human rights situation by country. [https://www.oas.org/es/cidh/docs/annual/2024/capitulos/IA2024\\_4A\\_ES.PDF#page201](https://www.oas.org/es/cidh/docs/annual/2024/capitulos/IA2024_4A_ES.PDF#page201)

are also subjects of law and holders of the right to life. A pronouncement on abortion always implies a position on a practice that necessarily implies the termination of the life of a dignified human being and that Article 4 of the ACHR protects, so it is necessary to expressly recognize the rights of the unborn person as part of the weighing up of considerations required in any case of abortion.

In this regard, Article 1.2 of the ACHR clearly establishes that, for the purposes of the Convention, a "person" is every human being.<sup>7</sup> Thus, in light of the Convention, human rights are not only recognized for persons who have already been born, but must be protected for all individuals from conception, who are to be considered human beings. Moreover, the I/A Court H.R. itself, in its advisory opinion 22, indicated that, unquestionably, the term "person" is equivalent to the term "human being" for the purposes of the ACHR.<sup>8</sup>

In light of the above, it is clear that the unborn person (*persona en gestación*) is a human being.<sup>9</sup> Furthermore, the Universal Declaration on the Human Genome and Human Rights states that "the human genome underlies the fundamental unity of all members of the human family, as well as the recognition of their inherent dignity and diversity. In a symbolic sense, it is the heritage of humanity"<sup>10</sup>

The consequence of recognizing the unborn as a person/human being is that he/she becomes a holder of rights. Thus, the ACHR establishes in its articles on rights the formula "Every person (...)."<sup>11</sup> Likewise, the instruments for the protection of human rights generally recognize the

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<sup>7</sup> ACHR Article 1.2 "For the purposes of this Convention, person means every human being."

<sup>8</sup> I/A Court H.R.. OC-22/16. Ownership of rights of legal persons in the inter-American human rights system. Advisory Opinion of February 26, 2016. Series A. No. 22. Par. 48.

<sup>9</sup> Kaluger, G., and Kaluger, M., *Human Development: The Span of Life*, The C.V. Mosby Co., St. Louis, 1974, pp. 28-29.

<sup>10</sup> Universal Declaration on the Human Genome and Human Rights. Article 1.

<sup>11</sup> American Convention on Human Rights. Articles 4, 5, 7, 8, 10, 10, 11, 12, 13, 14, 16, 18, 20, 21, 22, 24, and 25.

ownership of rights by members of the human species, especially the right to life.<sup>12</sup>

Furthermore, in the Artavia Murillo judgment, the I/A Court H.R. determined that "the protection of the right to life under is not absolute, but rather gradual and incremental according to its development [of the human embryo]." This implies that, irrespective of the concepts of gradualness and incrementality (with which I take issue), the Court has already established that persons in gestation must be protected by the State in their "right to life." In the same vein, in the *Cuscul Pivalar* case<sup>13</sup>, the I/A Court H.R. applied the ACHR to a fetus (*persona en gestación*) and also applied Article 19 of the ACHR, thus recognizing the legal status of the fetus as a child.

Likewise, I emphasize that the preamble of the Convention on the Rights of the Child states that the child needs protection and care both before and after birth.<sup>14</sup> This implies that in light of the Convention on the Rights of the Child (CRC), the unborn child is a child in need of special care. This was

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<sup>12</sup> International Covenant on Civil and Political Rights. Preamble, par. 3; American Convention on Human Rights, par. 3. Preamble; African Charter on Human and Peoples' Rights: Preamble, par. 6; Geneva Declaration on the Rights of the Child. Preamble, par. 1; American Declaration of the Rights and Duties of Man . Article 1; Universal Declaration of Human Rights. Preamble, par. 1; Declaration of the Rights of the Child. Preamble, par. 2; European Convention on Human Rights. Preamble, par. 2

<sup>13</sup> I/A Court H.R. Case of *Cuscul Pivalar v. Guatemala*. Judgment of August 23, 2018. "That said, the Court has indicated that extreme poverty and the lack of adequate medical care for women during pregnancy and postpartum are causes of high maternal mortality and morbidity. Therefore, States must implement appropriate health policies that allow it to provide assistance with suitably qualified personnel during births; policies to prevent maternal mortality by providing adequate prenatal and postpartum controls, and legal and administrative instruments relating to health policies that record cases of maternal mortality adequately. The Court has also recognized that, under Article 19 of the Convention, the State must assume its special position of guarantor with greater care and responsibility and take special measures focused on the principle of the best interest of the child."

<sup>14</sup> Convention on the Rights of the Child. Preamble.

reiterated in the preparatory work for the International Covenant on Civil and Political Rights.<sup>15</sup>

In short, a comprehensive interpretation of the Inter-American System and International Human Rights Law leads to the recognition of the unborn person as a subject of rights, particularly the right to life, protected from conception by Article 4 of the American Convention. Disregarding this protection implies arbitrarily excluding a human being from the moral and legal community of persons, contravening the principle of human dignity that is the foundation of the international human rights order.

Therefore, any decision or pronouncement regarding abortion requires a real weighing up of the competing rights -and not the suppression of one of them-, ensuring that the protection of prenatal life is combined with comprehensive care and the guaranteeing of the rights of the pregnant woman. Abiding by the American Convention requires a balanced and respectful approach to all the rights recognized therein.

**c) Obstetric emergencies: lack of protection of pregnant women and newborns and the scope of professional secrecy**

Paragraph 453 of the Report states that women "are also unable to seek medical attention in the event of obstetric emergencies due to abortion, as they run the risk of criminal prosecution following ex officio action by the health services". In this regard, I absolutely agree that the State should not criminally prosecute women for obstetric emergencies or complications and, by virtue of the right to health, medical care should be provided.

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<sup>15</sup> "The main reason for providing in paragraph 4 [now Article 6(5)] of the original text that the death penalty should not be applied to pregnant women was to save the innocent life of the unborn child." United Nations. General Assembly, Report of the Third Committee on the Draft International Covenants on Human Rights. A/3764. P. 40.

However, when an abortion is involved, I reiterate<sup>16</sup> that the State has a duty to protect life from any arbitrary deprivation from conception, in accordance with Article 4 of the ACHR, and a reinforced duty to protect the rights of children. From this duty derives the international obligation to investigate, prosecute, and punish human rights violations against children.<sup>17</sup> This is a consideration that must be taken into account in the analysis of these cases, where there are serious concerns about the arbitrary deprivation of life of newborns.

In fact, once again,<sup>18</sup> the IACtHR omitted to refer to the fact that the I/A Court H.R. has recognized that "the confidentiality of medical care and the protection of health data is not an absolute right and, therefore, may be restricted by States provided that the interference is not abusive or arbitrary; accordingly, this must be established by law, pursue a legitimate purpose and be necessary in a democratic society".<sup>19</sup> Thus, even determining whether or not professional secrecy should be waived in the event of an obstetric emergency must be analyzed on a case-by-case basis in order to establish whether or not the requirements are met.

Finally, although in the case of *Manuela v. El Salvador*, the Court established that "In cases of obstetric emergencies in which the life of the woman is in danger, the duty to respect the professional secret should be

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<sup>16</sup> Explanation of vote on the report Women Deprived of Liberty in the Americas.[https://www.oas.org/en/iachr/reports/pdfs/2023/Informe-Mujeres-privadas-libertad\\_ENG.pdf](https://www.oas.org/en/iachr/reports/pdfs/2023/Informe-Mujeres-privadas-libertad_ENG.pdf); Explanation of vote. Annual Report 2023. Chapter V. El Salvador. [https://www.oas.org/en/iachr/docs/annual/2023/chapters/IA2023\\_Cap\\_5\\_ElSalvador\\_ENG.PDF](https://www.oas.org/en/iachr/docs/annual/2023/chapters/IA2023_Cap_5_ElSalvador_ENG.PDF);

<sup>17</sup> I/A Court H.R. Case of Rochac Hernández et al. v. El Salvador. Merits, Reparations, and Costs. Judgment of October 14, 2014. Series C No. 285. Paragraph 135; I/A Court H.R. Case of V.R.P, V.P.C, et al. v. Nicaragua. Preliminary Objections, par. 292; I/A Court H.R. Case of Guzmán Albarracín et al. v. Ecuador. Merits, Reparations, and Costs. Judgment of June 24, 2020. Series C No. 405. Par. 120, Merits, Reparations, and Costs. Judgment of March 8, 2018 Series C No. 350. par. 164.

<sup>18</sup> Explanation of vote. Report on the Situation in Honduras - 2023. <https://www.oas.org/es/cidh/informes/pdfs/2024/informe-honduras.pdf>;

<sup>19</sup> I/A Court H.R. Case of Manuela et al. v. El Salvador. Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 2, 2021. Series C No. 441. Par. 207

given priority,”<sup>20</sup> it went on to affirm that “the effects caused by the complaint made by the treating physician in the **present case** were disproportionate to the advantages obtained through the complaint.” Thus, despite the general statement, the proportionality analysis exercise was carried out with respect to the specific case. Such a view, from my perspective, of a case-by-case review, should have been incorporated in the Report. Only an analysis of the specificity of the case will make it possible to establish, for example, whether the termination of the pregnancy had a purpose other than causing the death of the human being in gestation or not, in order to interpret it based on the principle of double effect.<sup>21</sup> Likewise, this case-by-case view would make it possible to evaluate the purposes and proportionality of disclosing confidential medical information in the specific case.

In short, the State must guarantee timely medical attention in the event of obstetric emergencies, without thereby waiving its duty to protect life from conception or to investigate possible arbitrary deprivations of life of children. Medical confidentiality is not an absolute right and may be subordinate to legitimate purposes, such as the protection of human life. Therefore, each case must be analyzed individually, applying the principles of proportionality, to distinguish between an obstetric emergency and the intentional termination of the life of the unborn human being, in compliance with Article 4 of the American Convention.

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<sup>20</sup> I/A Court H.R. Case of Manuela et al. v. El Salvador. Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 2, 2021. Series C No. 441, par. 224

<sup>21</sup> Catholic Answer. Abortion and double effect. <https://www.catholic.com/magazine/print-edition/abortion-and-double-effect>

#### **d) Use of the concept of forced maternity**

Paragraphs 385 and 453 refer to the term "forced maternity". In this regard, I reiterate<sup>22</sup> that I am particularly concerned about the incorporation of excessively broad terms that lack a definition in international law. That generates legal uncertainty, insofar as the scope of the obligations of States in this area is not clearly defined.

Likewise, I stress the importance of ensuring that the concept of forced maternity is not interpreted in such a way as to classify any policy prohibiting abortion as such. As I have mentioned on several occasions, in the ISHR there is no right to abortion; there is no obligation for the State to provide it; whereas on the contrary, the State does have the duty to protect the right to life from conception.

#### **II. In relation to sexual and reproductive education for children and adolescents**

Paragraph 454 of the Report states that:

"There is concern about the promotion of initiatives that would limit the right of girls and adolescents to receive sexual and reproductive health information and services. In this regard, information was received on legislative proposals No. 6743 and No. 6475, which together propose criminal penalties for anyone who promotes or facilitates measures for the performance of abortion, including the dissemination of related information, ideas, theories, or points of view. If passed, such laws would further restrict girls' and adolescents' access not only to safe abortion in cases permitted by law."

Paragraphs 450, 451, and 455 indicate that there is little or no access to comprehensive sexual education for children and adolescents. In addition, it is noted that, within the framework of the Public Policy for the Protection

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<sup>22</sup> Annual Report 2024 - Chapter IV.A Situation of human rights in the region - overview of the human rights situation by country.[https://www.oas.org/en/iachr/docs/annual/2024/chapters/IA2024\\_4A\\_EN.PDF#page201](https://www.oas.org/en/iachr/docs/annual/2024/chapters/IA2024_4A_EN.PDF#page201); Explanation of vote. Report on the Situation in Honduras - 2023. <https://www.oas.org/es/cidh/informes/pdfs/2024/informe-honduras.pdf>;

of Life and the Institutional Status of the Family 2021-2032, the promotion of sexual abstinence is prioritized as the only effective measure to reduce early pregnancy rates and sexually transmitted diseases, while restricting information and services on family planning and modern contraceptive methods. Likewise, paragraph 452 notes that initiatives and strategies related to comprehensive sex education face direct opposition from some sectors of the government.

Paragraph 456 states: "Similarly, the right of girls and adolescents to sexual and reproductive health implies timely access to health services and complete, accurate, and scientifically based information on family planning and modern contraceptive methods, as well as to emergency contraception and safe abortion.

In turn, in paragraphs 490 and 491, the IACtHR questions bills that propose banning the teaching of gender and sexual diversity issues in schools.

In this regard, I will refer to: (i) the need to attend to the best interests of children and adolescents and avoid their hypersexualization, and (ii) guaranteeing the right of parents to choose the education of their children in these matters.

**a) The need to address the best interests of children and adolescents and avoid their hypersexualization**

In view of the restrictions imposed in relation to sexual and reproductive education, as well as education on sexual and gender diversity aimed at children and adolescents, I reiterate<sup>23</sup> that it is vital to recognize that it is also essential to take into account the role of the family, society, and the State in the protection of children's rights, and therefore there should be ample discussion recognizing the needs of children based on their stage of development and the possible effects on their health of certain approaches, such as mere affirmation in discussions regarding gender nonconformity. Sex education without recognition and mitigation of these risks can cause serious violations of children's rights.

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<sup>23</sup> Explanation of vote. Annual Report 2024. Chapter V. El Salvador. [https://www.oas.org/en/iachr/docs/annual/2024/chapters/IA2024\\_5\\_SLV\\_EN.PDF](https://www.oas.org/en/iachr/docs/annual/2024/chapters/IA2024_5_SLV_EN.PDF)

In the report, the IACtHR failed to mention that the best interests of children and adolescents is a guiding principle that should govern all state actions. Indeed, this principle is enshrined in binding instruments of the Universal Human Rights System (UHRS),<sup>24</sup> the inter-American human rights system (ISHR)<sup>25</sup>, and the European Human Rights System (EHRS).<sup>26</sup>

In the UHRS, the best interests of the child are enshrined in the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Indeed, the CRC states in Article 3.1 that "[i]n all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration." and the CEDAW, in Article 5.b, enshrines the obligation of States parties to "ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases."

In the inter-American system, the American Convention on Human Rights establishes that "[e]very minor child has the right to the measures of protection required by his condition as a minor on the part of his family, society, and the state."

This principle has been extensively developed by the Committee on the Rights of the Child in General Comment 14. In that Comment, the Committee held that the best interests of children is an umbrella term that

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<sup>24</sup> Convention on the Rights of the Child. Article 3.1; Convention on the Elimination of All Forms of Discrimination against Women. Article 5.b)

<sup>25</sup> American Convention on Human Rights. Article 19

<sup>26</sup> ECtHR. R.L and others v. Denmark

encompasses three dimensions, namely: (i) a fundamental right of the child, (ii) a basic and interpretative principle, and (iii) a procedural rule.<sup>27</sup>

Regarding the content of this principle, the Committee held that it implies that any action involving a child or adolescent must consider his or her best interests as a primary consideration.<sup>28</sup> Hence, according to the Committee, the application of this principle means that not only should the interests of the child be considered, but also that his or her interests should take precedence whenever they conflict with other principles or interests.

Accordingly, all public policies implemented by States within the framework of their functions must take into account the interests of children and adolescents as an essential consideration. As a public policy, Comprehensive Sexuality Education must also be governed by the best interests of the child.

In this regard, I would like to point out a growing concern regarding sex education policies, that is, the hypersexualization of children and adolescents. Hypersexualization represents a risk that disproportionately affects the childhood population. This has been recognized by the Committee on the Rights of the Child in General Comment 20, which states that "[t]he digital environment can also expose adolescents to risks, including (...) **hypersexualization**".<sup>29</sup> This has been reiterated by the Committee in several reports, in which it has stated that hypersexualization is a problem that must be addressed by States, since it puts the rights of children and adolescents at risk.<sup>30</sup>

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<sup>27</sup> Committee on the Rights of the Child. General Comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, par. 1). CRC/C/GC/14.

<sup>28</sup> Committee on the Rights of the Child. General Comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, par. 1). CRC/C/GC/14

<sup>29</sup> General Comment No. 20 (2016) on the implementation of the rights of the child during adolescence

<sup>30</sup> Consideration of the reports submitted by States parties under article 44 of the Convention. Fifth periodic reports of States parties due in 2012; Committee on the Rights of the Child. Combined fifth and sixth periodic reports submitted by the Plurinational State of Bolivia under article 44 of the Convention, due in 2015.

Sex education, therefore, should be a means to prevent the hypersexualization of children and adolescents<sup>31</sup> and not a mechanism to promote it. Consistent with this, the ECtHR has established that for sex education to be in keeping with the Convention, it must aim to provide children with correct, accurate, objective, and scientific knowledge on the subject, presented in an age-appropriate way.<sup>32</sup>

By virtue of the above, the ECtHR has pointed out that a sex education policy aimed at children and adolescents should: (i) be based on the principle of objectivity<sup>33</sup>; (ii) approach the issues in a neutral manner<sup>34</sup>; (iii) offer an accurate and scientific approach to the subject matter<sup>35</sup> and (iv) ensure the presentation of the issues in a manner appropriate to the age and cognitive development of the child or adolescent.<sup>36</sup> In this connection, the Committee on Economic, Social, and Cultural Rights (ESCR) has indicated that sex education, "implies a right to education on sexuality and reproduction that is comprehensive, non-discriminatory, **evidence-based, scientifically rigorous, and age-appropriate**"<sup>37</sup> (Bold added).

Thus, the Inter-American Court has defined a purpose to be pursued that cannot be overlooked. Specifically, it pointed out that: "This education must ensure that children have an adequate understanding of the implications of sexual and emotional relationships, particularly in terms of their consent to

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<sup>31</sup> Universidad de la Sabana. The hypersexualization of childhood. <https://www.unisabana.edu.co/portaldenoticias/al-dia/la-hipersexualizacion-de-la-infancia/>

<sup>32</sup> ECtHR. Case of Macaté v. Lithuania.

<sup>33</sup> ECtHR. Bayev and Others v. Russia. 2018. Par. 72; Kjeldsen, Busk Madsen, and Pedersen v. Denmark. 1976. Paragraph 53.

<sup>34</sup> ECtHR. Macaté v. Lithuania. 2023. Par. 68.

<sup>35</sup> ECtHR. Macaté v. Lithuania. 2023. Par. 207; Bayev and Others v. Russia. 2018. Par. 72

<sup>36</sup> ECtHR. Macaté v. Lithuania. 2023. Par. 68.

<sup>37</sup> Committee on ESCR, General Comment No. 22 on the right to sexual and reproductive health (Article 12 of the International Covenant on Economic, Social and Cultural Rights), paras. 9 and 49.

such relationships, so that they can freely exercise their sexual and reproductive rights".<sup>38</sup>

However, the report completely omitted any analysis or consideration of the relationship and impact that this type of education may have on the best interests of children, and the need for safeguards to prevent the hypersexualization of children.

Accordingly, I believe that measures such as sexual abstinence - mentioned in paragraph 451 of the report - should be communicated as **a way** of safeguarding the best interests of children and adolescents, who, given their progressive development, do not yet have the maturity or the necessary criteria to make decisions in these matters. Instead of a vision that promotes hypersexualization, one that emphasizes self-control and human beings' ability to reason should be encouraged.<sup>39</sup> The American College of Pediatricians "strongly endorses abstinence-until-marriage sex education (...) based on the public health principle of primary prevention—risk avoidance in lieu of risk reduction, upholding the human right to the highest attainable standard of health".<sup>40</sup> In that regard, the College considers:

"The College position supporting abstinence-until-marriage education, unlike alternative education platforms, also recognizes the unique neurobiology of adolescent brains. The frontal cortex of the adolescent brain is still in development and unable to make the consistently wise executive decisions necessary to control action based on emotional input. Researcher Jay Giedd and others have found that young people do not

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<sup>38</sup> IA Court H.R.. Case of Guzmán Albarracín et al. v. Ecuador. Merits, Reparations, and Costs. Judgment of June 24, 2020. Series C No. 405, paragraph 139.

<sup>39</sup> PONTIFICAL COUNCIL FOR THE FAMILY. THE TRUTH AND MEANING OF HUMAN SEXUALITY Guidelines for Education within the Family. [https://www.vatican.va/roman\\_curia/pontifical\\_councils/family/documents/rc\\_pc\\_family\\_doc\\_08121995\\_human-sexuality\\_en.html](https://www.vatican.va/roman_curia/pontifical_councils/family/documents/rc_pc_family_doc_08121995_human-sexuality_en.html)

<sup>40</sup> Zeiler A. Abstinence education. *Linacre Q.* 2014 Nov; 81(4):372-7. doi: 10.1179/0024363914Z.00000000088. PMID: 25473134; PMCID: PMC4240060

have the physical brain capacity to make fully mature decisions until their mid-twenties (Strauch 2003, 16)".<sup>41</sup>

In short, sexual and reproductive education must be implemented with strict respect for the best interests of the child, guaranteeing an objective, scientific approach that is appropriate to the child's age and level of development. This implies that states, in the exercise of their leeway (*margen de configuración*), adopt measures aimed at protecting children and adolescents from hypersexualization and from any practice that ignores their level of maturity or their right to an all-round education. Likewise, educational policies should recognize the primordial role of the family and promote values such as responsibility, self-control, and the protection of human life from conception.

**b) Guaranteeing parents' right to choose their children's education in these matters**

I reiterate<sup>42</sup> that in all discussions related to sexual and reproductive education of children and adolescents, the right of parents to choose the education of their children, recognized in Article 12.4 of the ACHR, must be safeguarded. The aforementioned article states that "**[p]arents or guardians, as the case may be, have the right to provide** for the religious and **moral education** of their children or wards that is in accord with their own convictions." (Bold added)

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<sup>41</sup> Zeiler A. Abstinence education. *Linacre Q.* 2014 Nov; 81(4):372-7. doi: 10.1179/0024363914Z.00000000088. PMID: 25473134; PMCID: PMC4240060.

<sup>42</sup> Explanation of vote on the report "Social Cohesion: The Challenge to Consolidate Democracy in Bolivia". [https://www.oas.org/es/cidh/informes/pdfs/2024/CohesionSocial\\_Bolivia\\_SPA.pdf](https://www.oas.org/es/cidh/informes/pdfs/2024/CohesionSocial_Bolivia_SPA.pdf); Explanation of vote. Report on the Situation in Honduras - 2023. <https://www.oas.org/es/cidh/informes/pdfs/2024/informe-honduras.pdf>;Explanation of vote. Annual Report 2023. Chapter IV.B. Venezuela. [https://www.oas.org/en/iachr/docs/annual/2023/chapters/IA2023\\_Cap\\_4B\\_Venezuela\\_ENG.PDF](https://www.oas.org/en/iachr/docs/annual/2023/chapters/IA2023_Cap_4B_Venezuela_ENG.PDF); Explanation of vote. Annual Report 2023. Chapter IV.A. [https://www.oas.org/en/iachr/docs/annual/2023/chapters/IA2023\\_Cap\\_4A\\_ENG.PDF](https://www.oas.org/en/iachr/docs/annual/2023/chapters/IA2023_Cap_4A_ENG.PDF)

The same guarantee has been provided for in the International Covenant on Civil and Political Rights<sup>43</sup>, the International Covenant on Economic, Social, and Cultural Rights<sup>44</sup>, the Convention on the Rights of the Child<sup>45</sup>, and the Additional Protocol to the European Convention on Human Rights.<sup>46</sup> According to the ECtHR, the **right of parents to choose their children's education, including sex education**, is an aspect of the right to respect for private and family life protected by the ECHR.<sup>47</sup>

Thus, there is a consensus in international human rights law -omitted by the Commission- regarding the existence and recognition of this parental right. The Inter-American Commission has understood that the right of parents to choose the education of their children (i) must be interpreted in conjunction with the rights of children and adolescents, especially the right to education<sup>48</sup> and (ii) must respect the provisions of the inter-American instruments that establish that education must be oriented to train children to respect human rights, public freedoms, and tolerance.<sup>49</sup>

Of course, I agree with those criteria. However, it must not be forgotten that: (i) all types of education must be respectful of the best interests of children as a guiding principle, and (ii) the right of parents to choose the education of their children is derived from the right to education of children itself; therefore, there is a false dilemma in considering that these two rights are incompatible.

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<sup>43</sup> Article 18.4.

<sup>44</sup> Article 13.3.

<sup>45</sup> Article 14.2.

<sup>46</sup> Article 2

<sup>47</sup> ECtHR, Kjeldsen, Busk Madsen, and Pedersen, par. 53; Dojan et al, cited above, paras. 78–83

<sup>48</sup> IACtHR. Report on Inter-American Standards Concerning Freedom of Religion or Belief

<sup>49</sup> IACtHR. Report on Inter-American Standards Concerning Freedom of Religion or Belief

Thus, the ECtHR, in its interpretation of Article 2 of Protocol No. 1, has stated that<sup>50</sup> the right of parents to respect for their philosophical and religious convictions is based on the fundamental right to education. According to the European Court of Human Rights, although it is the parents who are entitled to this right, children are also entitled to it, because they have the right to education and teaching.<sup>51</sup>

Undoubtedly, this right affects sex and reproduction education, as well as education on sexual and gender diversity, for children and adolescents, because like any other type of education, it must be framed within the scope of protection of conventional law, recognized by international human rights law, which grants parents the right to choose the education of their children, in accordance with Article 12.4 of the Convention.

Issues related to sexuality, reproduction, and sexual and gender diversity are closely related and have a major impact on people's value systems. Therefore, sex education is an integral part of the moral education of children and adolescents. The broad social discussions on the subject, and the diverse visions that may arise from different value systems in a region as pluralistic as ours, cannot be ignored. Therefore, it cannot be interpreted that it is the State -or the ISHR- that is in charge of choosing the moral education of children, forgetting that it is the parents who are the holders of this right.

### **III. On gender identity and other issues related to the LGBTI community**

Below I will refer to: (i) the non-existence of a right to gender identity and the obligation to guarantee the rectification of the sex marker on identity documents for persons who identify themselves as transgender; (ii) the vision incorporated by the ACHR on marriage and the leeway in matters of

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<sup>50</sup> The general principles enunciated by the ECtHR are mainly derived from the judgments handed down in the following cases: Kjeldsen, Busk Madsen, and Pedersen v. Denmark (ECtHR 1976/5); Campbell and Cosans v. United Kingdom (ECtHR 1982/1); Valsamis v. Greece (ECtHR 1996, 70), and Folgerø et al. v. Norway (ECtHR 2007/53).

<sup>51</sup> Case of Kjeldsen, Busk Madsen, and Pedersen v. Denmark (STEDH 1976/5 of December 7, section 52).

adoption; (iii) the considerations on the so-called "conversion therapies" and (iv) the need to prevent discrimination based on sex in deprivation of liberty contexts .

**a. Non-existence of the right to gender identity and of the obligation to guarantee the rectification of the sex marker on identity documents for persons who identify as transgender**

Paragraph 488 of the Report states that "trans, non-binary, and gender diverse people do not have their right to gender identity and expression recognized. There are no standardized mechanisms for adapting the documents of trans persons based on their gender identity. All that is allowed is adaptation of the "name" component in the identity documents and the photograph, not rectification of the "sex assigned at birth" marker, which exposes trans persons to discrimination and violence". Consistent with this, recommendation 28 suggested that the State adopt measures to guarantee these "rights".

In this regard, I reiterate<sup>52</sup> that the American Convention does not expressly contemplate a right to gender identity, nor is there a binding instrument in the inter-American system that establishes an obligation to adapt identification documents to gender identity.

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<sup>52</sup> Explanation of vote. Annual Report 2023. Chapter IV.A [https://www.oas.org/en/iachr/docs/annual/2023/chapters/IA2023\\_Cap\\_4A\\_ENG.PDF](https://www.oas.org/en/iachr/docs/annual/2023/chapters/IA2023_Cap_4A_ENG.PDF); Explanation of vote. Annual Report 2023. Chapter V. El Salvador. [https://www.oas.org/en/iachr/docs/annual/2023/chapters/IA2023\\_Cap\\_5\\_ElSalvador\\_ENG.PDF](https://www.oas.org/en/iachr/docs/annual/2023/chapters/IA2023_Cap_5_ElSalvador_ENG.PDF); Explanation of vote. Annual Report 2023. Chapter IV.B. Venezuela. [https://www.oas.org/en/iachr/docs/annual/2023/chapters/IA2023\\_Cap\\_4B\\_Venezuela\\_ENG.PDF](https://www.oas.org/en/iachr/docs/annual/2023/chapters/IA2023_Cap_4B_Venezuela_ENG.PDF); Explanation of vote. Report on the Situation in Honduras - 2023. <https://www.oas.org/es/cidh/informes/pdfs/2024/informe-honduras.pdf>; Explanation of vote. Annual Report 2024, Chapter IV.A Venezuela. [https://www.oas.org/en/iachr/docs/annual/2024/chapters/IA2024\\_4B\\_VEN\\_EN.PDF](https://www.oas.org/en/iachr/docs/annual/2024/chapters/IA2024_4B_VEN_EN.PDF) Explanation of vote. Annual Report 2024. Chapter V. El Salvador. [https://www.oas.org/en/iachr/docs/annual/2024/chapters/IA2024\\_5\\_SLV\\_EN.PDF](https://www.oas.org/en/iachr/docs/annual/2024/chapters/IA2024_5_SLV_EN.PDF); Partial dissenting vote. Annual Report 2024 - Chapter IV.A Situation of human rights in the region - overview of the human rights situation by country. [https://www.oas.org/en/iachr/docs/annual/2024/chapters/IA2024\\_4A\\_EN.PDF#page201](https://www.oas.org/en/iachr/docs/annual/2024/chapters/IA2024_4A_EN.PDF#page201); Explanation of vote. Annual Report 2024. Chapter IV: B. Venezuela. [https://www.oas.org/en/iachr/docs/annual/2024/chapters/IA2024\\_4B\\_VEN\\_EN.PDF](https://www.oas.org/en/iachr/docs/annual/2024/chapters/IA2024_4B_VEN_EN.PDF)

As I have indicated, recognizing new rights that are not in the Convention through an interpretation that does not follow the procedures established in the Convention itself would undermine Articles 31, 76, and 77, ignoring the original will of the States that ratified the Convention.

Therefore, any pronouncement in which any of the organs of the IHRS applies a right that is not established in the binding instruments of international law that govern its activity will be an act violating the literal meaning of the American Convention and will exceed the scope of the competencies of the IACtHR or the I/A Court H.R., as the case may be. Such an irregular constituent act (*acto constitutivo*) would also undermine the principles of good faith and *pacta sunt servanda*.<sup>53</sup>

In light of the above, given that there is no right under the Convention to gender identity that is binding on States, it is possible to affirm that there are no correlative obligations to recognize this right either. On the other hand, although I am not unaware that OC-24/17 asserted the existence of the so-called "right to gender identity" and a supposed obligation to adapt identification documents to self-perceived gender identity in the terms indicated in this Chapter, I emphasize that the Advisory Opinions of the I/A Court H.R. are not entitled to contemplate rights or obligations other than those expressly contemplated by the American Convention.<sup>54</sup>

In this regard, first, Article 68 of the Convention expressly affirms that states are obliged to comply with the decisions rendered by the Court, "in any case in which they are parties." This provision is important in that (i) it is the only one that refers to the legal value of the Tribunal's pronouncements and (ii) it expressly limits the binding nature of those pronouncements to the States party to a case, thus limiting the addressee of the obligations -the State party to a case- and the context in which the

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<sup>53</sup> Vienna Convention on the Law of Treaties. Article 26.

<sup>54</sup> I/A Court H.R. Gender identity and equality and non-discrimination of same-sex couples. State obligations in relation to name change, gender identity, and rights derived from a same-sex relationship (interpretation and scope of Articles 1(1), 3, 7, 11(2), 13, 17, 18, and 24, in relation to Article 1 of the American Convention on Human Rights). Advisory Opinion OC-24/17, November 24, 2017. Series A, No. 24.

pronouncement is issued -that is, litigation-. This position has also been supported by some exponents of legal doctrine (*sectores de la doctrina*), also based on the principle of State consent as the foundation of conventional law.<sup>55</sup>

Secondly, specifically regarding OC-24/17, consideration should be given to Article 64 of the ACHR, which limits the competence of the Court to issue advisory opinions regarding the Convention or treaties of the inter-American system. Thus, given that OC-24/17 establishes alleged rights not contemplated in the ACHR, nor in any other treaty of the ISHR, their binding nature is even more questionable.

Thirdly, to derive obligations or so-called rights not contemplated in the Convention, based exclusively on an advisory opinion, would contravene the principle of *pacta sunt servanda* that governs international treaty law, by virtue of which States are only bound to comply with that to which they have expressed their consent.<sup>56</sup>

Fourth, although the I/A Court H.R. has affirmed that advisory opinions are parameters of conventionality control,<sup>57</sup> I emphasize that an open and transparent inter-American dialogue is still needed to further discuss this position, which is not expressly derived from the American Convention, or any other international instrument that is binding upon states. I draw attention to the fact that there is still no consensus regarding this matter, either in states of the region or in academic circles; for that reason, important constitutional courts still refrain from invoking the notion of conventionality control and from incorporating advisory opinions as a parameter.<sup>58</sup>

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<sup>55</sup> Systematization of the criticisms in: González Domínguez, P. (2017). The doctrine of conventionality control in light of the subsidiarity principle. *Constitutional Studies*, 15(1), 55-98.

<sup>56</sup> Vienna Convention on the Law of Treaties.

<sup>57</sup> I/A Court H.R.. Rights and Guarantees of Children in the Context of Migration and/or in Need of International Protection. Advisory Opinion OC-21/14 of August 19, 2014. Series A No. 21 par. 31.

<sup>58</sup> Ramírez, F. G. (2023). A critical look at conventionality control. *Journal of Law and Social Sciences*, (28), 101-142; Palacios, D. L. (2017). Inter-American conventionality control at the national level: a notion still under construction. *Revista Direito e Práxis*, 8, 1389-1418.

Finally, I note that some authors have indicated that broadening the effects of advisory opinions could trigger distortions in the way the inter-American system operates and, thus, weaken it, since (i) it entails equating decisions issued as part of the Court's advisory functions with the text of the convention itself,<sup>59</sup> and (ii) it blurs the differences between the jurisdictional and advisory functions of the Court. Some have even pointed out that these interpretations by the Court generate legal uncertainty, since there is no certainty as to the effects associated with the issuance of advisory opinions.<sup>60</sup>

On the contrary, as I have stated in previous explanations of my votes, gender identity, based on *self-determination* or *self-perception*, poses serious risks to the rights of individuals, in general, and, in particular, to population groups with special inter-American protection, such as women. Insisting that States change even the sex markers on identity documents increases these risks, as it completely dilutes gender differentiation and hampers implementation of affirmative measures for women.

The Commission must deliberate deeply on this matter, from a human rights perspective and with a differential approach, in order not to harm or frustrate affirmative measures in favor of women or other population groups with special inter-American protection.

If it is enough for a person to state that he/she *perceives himself/herself* as a woman for the State to automatically recognize her as such, without any additional regulation or reasonable requirement, affirmative measures in favor of women will most likely lose their effectiveness, and the States will end up erasing the very identity of women and of any other population group.

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<sup>59</sup> Colombo, I. (2022). A critical analysis of the doctrine of conventionality control. *Omnia. Law and Society*, 5 (1), pp. 83-116.

<sup>60</sup> Colombo, I. (2022). A critical analysis of the doctrine of conventionality control. *Omnia. Law and Society*, 5 (1), pp. 83-116.

On this, the then Judge Elizabeth Odio Benito was clear, explaining that:

"[...] the central issue of feminism (and, in this case, the violence against women due to being women) is women and the specific oppression that they suffer, its origin and impact. If we confuse the feminist struggle and substitute the subject of feminism, if the subject of feminism is no longer the biological woman and becomes a strange and confused variable of subjective identities, we should reflect on and raise the issue of the more than probable negative impact that it would have on decades of feminist theory and struggle. Moreover, not only feminism would disappear, but also the theory of human rights that is also based on objective and scientific categories, rather than on feelings or self-perceptions. Thus, we should ask ourselves: if sex, as a substantive and scientific category disappears, absorbed by "gender identity," an individual subjective perception, what would gender violence be based on? And what would the feminine sex be reduced to? How would rape and other crimes of sexual violence against women be documented? How would the violence suffered by trans persons be documented if the sex change is something confidential that cannot be documented? And salary differences? And discrimination in access to formal and informal education at all levels? Many more questions arise. But these few are sufficient to reveal the chaos and retrogression that we are facing."<sup>61</sup>

I take advantage of the considerations of then Judge Elizabeth Odio Benito to insist on the defense of the value that exists in being biologically female or male, which is not equivalent to *reducing* the identity of a person only to his or her biological sex.

Therefore, if international human rights law erases biological sex and measures with a differential approach based precisely on the criterion of biological sex, it would deprive the protection of population groups such as women of any rational basis. If the majority position remains in favor of the

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<sup>61</sup> I/A Court H.R.. Case of Vicky Hernández et al. v. Honduras. Merits, Reparations, and Costs. Judgment of March 26, 2021. Series C No. 422. Partially dissenting opinion of Judge Odio Benito, Par. 15.

promotion of absolute legal recognition of *self-perceived* or *self-determined* gender identity; it will hinder -if not nullify- the effectiveness of countless special protection measures.

**b. Same-sex couples: disregard for the ACHR's views on marriage**

Paragraph 489 of the Report states that: "civil society organizations denounced the lack of legal protections for families, as Guatemala does not recognize marriages or civil unions of same-sex couples". In turn, paragraph 490 states that the IACHR has followed up on a law that reaffirms the institution of marriage as a right of male and female couples, emphasizing that this legislative proposal is contrary to the right to equality and non-discrimination,

In this regard, without prejudice to the adoption by states of legal measures to protect same-sex relationships, I reiterate<sup>62</sup> that there is no conventional provision that obliges states to recognize same-sex marriages. As I have mentioned on several occasions, the treaties that are part of the inter-American human rights system and grant jurisdiction to the Inter-American Commission to address contentious cases do not contemplate any obligation with respect to the recognition of marriage between same-sex couples. This lack of obligation derives from the literal wording of the American Convention, which clearly establishes that marriage is a right reserved for "men and women": "**The right of men and women** of marriageable age to marry and to raise a family shall be recognized, if they meet the conditions required by domestic laws, insofar

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<sup>62</sup> Explanation of vote. Annual Report 2023. Chapter IV.A. [https://www.oas.org/en/iachr/docs/annual/2023/chapters/IA2023\\_Cap\\_4A\\_ENG.PDF](https://www.oas.org/en/iachr/docs/annual/2023/chapters/IA2023_Cap_4A_ENG.PDF); Explanation of vote. Annual Report 2023. Chapter IV.B. Venezuela. [https://www.oas.org/en/iachr/docs/annual/2023/chapters/IA2023\\_Cap\\_4B\\_Venezuela\\_ENG.PDF](https://www.oas.org/en/iachr/docs/annual/2023/chapters/IA2023_Cap_4B_Venezuela_ENG.PDF); Explanation of vote. Report on the Situation in Honduras - 2023. <https://www.oas.org/es/cidh/informes/pdfs/2024/informe-honduras.pdf>; Explanation of vote. Annual Report 2024. Chapter IV.A Venezuela. [https://www.oas.org/en/iachr/docs/annual/2024/chapters/IA2024\\_4B\\_VEN\\_EN.PDF](https://www.oas.org/en/iachr/docs/annual/2024/chapters/IA2024_4B_VEN_EN.PDF) Explanation of vote. Annual Report 2024. Chapter V. El Salvador. [https://www.oas.org/en/iachr/docs/annual/2024/chapters/IA2024\\_5\\_SLV\\_EN.PDF](https://www.oas.org/en/iachr/docs/annual/2024/chapters/IA2024_5_SLV_EN.PDF) partial dissenting vote. Annual Report 2024 - Chapter IV.A Situation of human rights in the region - overview of the human rights situation by country. [https://www.oas.org/en/iachr/docs/annual/2024/chapters/IA2024\\_4A\\_EN.PDF#page201](https://www.oas.org/en/iachr/docs/annual/2024/chapters/IA2024_4A_EN.PDF#page201); Explanation of vote. Annual Report 2024. Chapter IV. B. Venezuela. [https://www.oas.org/en/iachr/docs/annual/2024/chapters/IA2024\\_4B\\_VEN\\_EN.PDF](https://www.oas.org/en/iachr/docs/annual/2024/chapters/IA2024_4B_VEN_EN.PDF)

as such conditions do not affect the principle of nondiscrimination established in this Convention.”<sup>63</sup> (Bold added)

Therefore, in accordance with the hermeneutic principle that calls for a literal and good faith interpretation,<sup>64</sup> the State is only obliged to recognize the right to marriage for the couples specifically mentioned in Article 17.2 of the American Convention.

It is essential to underline that, according to the jurisprudence of the International Court of Justice, the good faith interpretation of a treaty should not result in changes to the literal wording of the treaties or in inferring what is not expressly contained in the text. This approach implies that the interpreter must assume that the parties intended what is apparent from the ordinary meaning of the terms used in the international agreement.<sup>65</sup> The text-based approach to treaty interpretation is not only accepted in the field of international law, but is also highly recommended, as it uses the only empirically verifiable evidence of state intentions: the text of the treaty itself.<sup>66</sup>

Following these rules of interpretation, the European Court of Human Rights has considered the conception of marriage as that concluded between a man and a woman - as established in the European Convention

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<sup>63</sup> American Convention on Human Rights. Article 17.1

<sup>64</sup> Vienna Convention on the Law of Treaties. Article 31 of the Report

<sup>65</sup> International Court of Justice. Case concerning rights of nationals of the United States of America in Morocco. France v. United States of America. ICJ Reports 1952, pp. 196-199. International Court of Justice. Interpretation of peace treaties with Bulgaria, Hungary, and Romania (Second Phase). ICJ Reports 1950, pp.229 -230.

<sup>66</sup> International Court of Justice. Question of the Delimitation of the Continental Shelf between Nicaragua and Colombia beyond 200 Nautical Miles from the Nicaraguan Coast (Nicaragua v. Colombia), Preliminary Objections, Judgment, I.C.J. Reports 2016, pp.116-123, paras. 34-38, 46. Although the International Court of Justice did not rely exclusively on the literal criterion of interpretation, this was one of the first criteria taken into account by the Court to reject the interpretation of the Colombian party.

on Human Rights, in a provision similar to that of the ACHR.<sup>67</sup> Thus, the European Court supports the idea that there is no binding obligation for states to recognize marriage between same-sex couples, which gives states ample leeway to regulate on this matter.<sup>68</sup> Likewise, in the words of the European Court of Human Rights: "The Court reiterated that the States remained free under Article 14 taken together with Article 8 to restrict marriage to opposite-sex couples and that they had some room for manoeuvre ("margin of appreciation") as regards the exact status conferred by alternative means of legal recognition".<sup>69</sup>

On this point, it is worth noting that this same approach is supported by the European Court in the cases *Orlandi v. Italy*<sup>70</sup> and *Fedotova et al. v. Russia*.<sup>71</sup> Indeed, in both cases, the European Court held that, although States must provide mechanisms for the protection of same-sex unions, this protection does not necessarily derive from the recognition of same-sex marriages.

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<sup>67</sup> European Convention on Human Rights. Article 12: "Men and women of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right."

<sup>68</sup> ECtHR. *Oliari et al. v. Italy*. July 21, 2015 Par. 193.

<sup>69</sup> ECtHR. *Chapin and Charpentier v. France*. September 9, 2016. Par. 48

<sup>70</sup> ECtHR. *Orlandi v. Italy*. "The Court reiterates that States are still free, under Article 12 of the Convention as well as under Article 14 taken in conjunction with Article 8, to restrict access to marriage to different sex. The same holds for Article 14 taken in conjunction with Article 12 (see *Oliari and Others* cited above, § 193)." (Spanish text: El Tribunal reitera que **los Estados siguen siendo libres**, de acuerdo con el Artículo 12 de la Convención, así como con el Artículo 14 en conjunción con el Artículo 8, **de restringir el acceso al matrimonio a parejas de distinto sexo**. Lo mismo se aplica al Artículo 14 en conjunción con el Artículo 12). Par. 192

<sup>71</sup> In this case, the Court analyzed -only- the possible violation of Article 8 of the EHRC, which refers to the right of individuals not to be subjected to arbitrary interference by the State in their private life. In the case of same-sex couples, the Court established that the lack of a legal framework allowing same-sex couples to have their relationship recognized and protected under national law may generate significant obstacles in the daily lives of these couples. Without prejudice to the foregoing, it established that the State may enjoy some leeway to determine the way in which same-sex unions are registered, which implies that this registration need not necessarily involve the notion of marriage.

Within this framework, I fully agree that the leeway available to the States in this regard concerns both the form of recognition and the content of the protection to be granted to same-sex couples, **which, obviously, cannot be translated into an absolute lack of protection for same-sex couples.**

**c. Regarding so-called "conversion therapies"**

Paragraph 474 of the Report states that it was "reported that some churches carry out conversion therapies and practices in order to eliminate diverse sexual orientation or gender identity". In this regard, I categorically reject any form of violence against LGTBI people. However, I emphasize that, with regard to the so-called "conversion therapies," it is essential that the IACtHR define what that term means.

In addition, the impact of the right to religious freedom, enshrined in Article 12 of the ACHR, must be taken into account, and how this may include the voluntary choice of LGTBI persons to live and exercise their spirituality according to their convictions. According to the IACtHR, this right includes "the freedom to worship or hold meetings in connection with religion or beliefs in places for such purposes":<sup>72</sup>

An extremely broad interpretation of the concept of conversion therapies could interfere with the legitimate private sphere of individuals, such as decisions about their sexual orientation, their sexual expressions and behaviors, or the support and guidance they wish to have in these areas.

**d. The need to prevent sex-based discrimination in prison**

Paragraph 608 of the Report mentions that "[a] report from the same year shows that there is no policy for accommodating trans persons in the country and that most trans women are sent to male prisons. According to civil society testimony, trans women held in men's prisons are mistreated, have their hair cut and are restricted in the expression of their gender identity".

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<sup>72</sup> IACtHR. Report on Inter-American Standards Concerning Freedom of Religion or Belief. Par. 40

In this regard, I emphasize that, although protection measures should be adopted for people who self-identify as trans in prisons, the truth is that, in relation to women-only spaces, comparative contexts have shown that it is essential to maintain separate spaces based on sex. In particular, in prison contexts where gender separation has been blurred to include male inmates in female facilities, there have been significant cases of sexual, physical, and psychological violence against women.<sup>73</sup> By this I do not mean that all people who identify as trans gender women are violent, but rather that there are people with violent intent who take advantage of policies that have blurred separation on the basis of sex to carry out violent acts against women. For this reason, separation in prison facilities based on sex has been a constant and reiterated obligation of international law, as a positive measure to protect women.

I reiterate<sup>74</sup> that Article 5.5 of the American Convention establishes the principle of separation of places of detention for men and women and the Court has considered, based on the Convention and the pronouncements of other human rights bodies, " that all women deprived of liberty must be placed in a physically separate space from men and, moreover, in blocks or sections that are less restrictive and have a lower level of security, which responds to the low level of risk that the women represent, and with sufficient space to meet their specific needs".<sup>75</sup>

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<sup>73</sup> D. Shaw, 'Transgender Inmate in Prison for Rape of Young Girls is Accused of Sexual Assaults on Female Inmates' (1 June 2018) Women are Human, <https://www.womenarehuman.com/transgender-man-who-rapedyoung-girls-housed-in-womens-prison-jessica-winfield-nee-martin-ponting/>; K. Finlay 'Transgender Inmate Charged with Sexual Assault at a Women's Prison' (24 August 2020) Women Are Human, <https://www.womenarehuman.com/transgender-inmate-charged-with-sexual-assault-at-a-womensprison/>; UK High Court of Justice [2021] CO4198/2019, <https://fairplayforwomen.com/wp-content/uploads/2021/07/FDJv-SSJ-judgment-approved-as-handed-down-on-02.07.21-002.pdf>

<sup>74</sup> Explanation of vote. Annual Report 2023. Chapter IV.B. Venezuela. [https://www.oas.org/en/iachr/docs/annual2023/chaptersIA2023\\_Cap\\_4B\\_Venezuela\\_ENG.PDF](https://www.oas.org/en/iachr/docs/annual2023/chaptersIA2023_Cap_4B_Venezuela_ENG.PDF)

<sup>75</sup> I/A Court H.R. Advisory Opinion OC-29 of 2022; Bangkok Rules, *supra*, Rules 12 and 41.d., and Report of the United Nations Special Rapporteur on Violence against Women, Rashida Manjoo, Pathways to, conditions and consequences of incarceration for women, A/68/340, *supra*, par. 85.

This rule of separation is also found in the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules)<sup>76</sup>, the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules)<sup>77</sup>, and even for armed conflicts in the Third<sup>78</sup> and Fourth<sup>79</sup> Geneva Conventions.

Thus, states and international bodies have the duty to promote this separation, which implies that male inmates should not be present in women's prisons. Especially when, as in the draft Report that is the subject of this opinion, no safeguards are included to prevent the forms of violence against women that can arise from these prison models that give predominance to gender self-identification. I call for appropriate measures to be taken to prevent all forms of violence, including violence against people who identify as transgender women, but these measures cannot understate women's rights, nor expose them to situations of risk that violate their right to live free from all forms of violence, especially in contexts of profound vulnerability such as deprivation of liberty.

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<sup>76</sup> Standard Minimum Rules for the Treatment of Prisoners. Rule 2 and 11

<sup>77</sup> United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules). Rule 1

<sup>78</sup> III Geneva Convention. Article 25

<sup>79</sup> IV Geneva Convention. Article 76

