
CHAPTER IV.A HUMAN RIGHTS DEVELOPMENTS IN THE REGION

A. Overview of the human rights situation by country

METHODOLOGY

1. The Commission approved making Chapter IV.A of its 2019 Annual Report an overview of the human rights situation in the States of the region, with a special emphasis on the rights and issues prioritized by the IACHR, as well as on the following cross-cutting themes established by the Commission in its Strategic Plan 2017-2021: democratic institutionalism, institutionalism of human rights, access to justice and citizen security; as well as the issues prioritized in that Plan. With respect to freedom of expression and economic, social, and cultural rights, the Special Rapporteurships for each of those areas produce their own annual reports, which are attached to this Report.

2. To prepare this section, the IACHR took into account the information received on the human rights situation in the 32 countries in the region during 2019, in the exercise of its monitoring function. The IACHR validated the information received during country and work visits and ex officio investigations, as well as with inputs from the different mechanisms through which the IACHR has followed up on the situation in a country (such as public hearings, requests for information under Article 41 of the American Convention, thematic visits, and precautionary measures), as well as journalism news items, and decisions and recommendations from specialized international bodies, among other methods.

3. Also, pursuant to its authorities established in Article 41 of the American Convention and Article 18 of the American Declaration on the Rights and Duties of Man, in August 2019, the Commission asked for information from the 35 Member States on the rights, issues, and crosscutting themes prioritized in the Strategic Plan, as described above.

4. The IACHR received responses from the following 15 Member States: Argentina, Bahamas, Bolivia, Brazil, Chile, Colombia, Ecuador, El Salvador, Guyana, Honduras, Jamaica, Mexico, Nicaragua¹, Paraguay and Peru. The IACHR appreciates and values the information sent, which was included in this chapter as pertinent.

5. Likewise, the IACHR appreciates the information provided by institutions and civil society organizations throughout the year via the various monitoring mechanisms, which was included in this section as pertinent.

TRENDS

6. Hereunder, the IACHR provides an overview of the human rights situation in the region based on monitoring conducted over the course of 2019. The IACHR reviewed the information and identified a number of trends as human rights challenges, many of which have carried over from the preceding year. The Commission highlights broad political engagement of citizens through social protest. By the same token, it views with concern repression of social protest in some countries of the region through disproportionate use of force, as well as acts of violence and vandalism taking place in these contexts. Furthermore, the IACHR has noticed in 2019 that acts of violence and discrimination have continued to be perpetrated against groups living in special situations of exclusion, such as women and children, LGBTI persons, indigenous peoples, human rights defenders, social

¹ The information provided by the State of Nicaragua was used to prepare Chapter IV.B of this Report.

leaders and journalists. Likewise, the grave situation of forced migration and persons deprived of liberty is worrisome.

7. In 2019, the Commission took note of acts of repression in the region taking place in contexts of protests and demonstrations in some countries through excessive use of force, leading to violations of individuals' right to life and physical integrity. In such contexts, detentions of demonstrators were also observed. The Commission notes that firearms must not be used to control social protests. The use of this type of weapon is an extreme measure and is only permissible when law enforcement is unable to overpower or stop those who threaten the lives and safety of others by less lethal means. Likewise, States must take the necessary measures to investigate acts of violence with due diligence establishing who is physically responsible and the masterminds of such acts and punish them accordingly. The IACHR also condemns acts of violence and vandalism that are perpetrated in the context of demonstrations, inasmuch as such conduct is incompatible with the right to protest. In this regard, the Commission calls on anyone who takes part in demonstrations to not resort to acts of violence and emphasizes that the fact that some groups or individuals engage in violence at a demonstration does not mean, in itself, that the entire protest is violent. The IACHR renews its call for States to step up their efforts to promote dialogue, ensure the right to protest, protect the right to peaceful demonstration and adopt public policies that prioritize respect and guarantee of the right to life, physical integrity and other fundamental human rights.

8. The IACHR further recalls that, pursuant to Inter-American standards, maintaining public order and citizen security is quintessentially the province of civilian police forces. In any case, according to Inter-American legal precedent, armed forces may only take part in citizen security-related tasks in special circumstances. Any intervention of the armed forces must be properly justified, exceptional and temporary in nature, and confined to what is strictly necessary in the particular circumstances of the case. In such instances, armed forces' involvement must be subordinated and a complement to civilian police forces, as well as regulated by law and under supervision.

9. With respect to human rights defenders, the Commission has noticed high numbers of murdered defenders and social leaders in the region; as well as attacks, threats, harassment, acts of intimidation, judicial proceedings to criminalize them, smear campaigns and delegitimization of their professional pursuits. It is worrisome to the IACHR that some of the attacks in 2019 were perpetrated against human rights defenders, who are beneficiaries of IACHR-granted precautionary measures. The IACHR underscores again the heightened risk faced by human rights defenders and indigenous leaders, land, environmental and women's rights defenders, as well as the high degree of impunity in these cases. An additional cause for concern is that patterns of violence against journalists and the media continue to unfold, as does the climate of impunity surrounding crimes and violence against journalists reported in previous years. It is also troubling to observe that journalists, media outlets and activists continue to be stigmatized by senior government officials in several countries of the region. The IACHR calls upon the States of the region to take concrete, adequate and effective measures in terms of protection, prevention, investigation and access to justice, in order to create a safe climate that is conducive to people who defend human rights in the region. States must also ensure that human rights defenders, journalists and media outlets are able to do their important job freely and safely.

10. The Commission further notes that there continue to be in the countries of the region irregularities and omissions with regard to prior, free and informed consultations, in advance of granting concessions, licenses and permits for the exploration and exploitation of natural resources, which encroach upon the ancestral territories of indigenous or Afro-descendant peoples. On this issue, the Inter-American Court has repeatedly held that the right to consultation includes, as an essential element, the right of indigenous peoples to be consulted about, and participate in, the development of the process of consultation to which they are entitled. The IACHR recalls that prior consultation is not a tool to mitigate social conflict, but a procedure to realize the right to free determination, in relation to the activities that are carried out on their ancestral lands and territories, or that have an impact on the natural resources that are located therein.

11. The Commission continues to be concerned about the high levels of gender-based violence against women and girls in the region, including restrictions on the exercise of their reproductive rights. It has

also noticed widespread acts of violence, including hate crimes against LGBTI persons, motivated by their sexual orientation, expression and/or gender identity or their sexual traits.

12. Over 2019, the IACHR has repeatedly voiced its concern about the rights of migrants in the region. In particular, about the situation of forced migration of Venezuelan nationals, whose total number now surpasses 4,600,00 people and who have been compelled to leave their country as a consequence of mass human rights violations, as well as the grave food and health crisis that the country has been experiencing. The IACHR has viewed with concern the measures adopted by some States to restrict movement and intake of the Venezuelan population by establishing administrative requirements or stricter police and migratory controls along their borders and entry points, as well as collective rejections and expulsions. This situation has a particular impact on people's ability to seek asylum and on reunification of Venezuelan families.

13. In addition, there continued to be forced migration of people from the Northern Triangle of Central American. In particular, the caravans toward Mexico and the United States were ongoing. In these cases, the IACHR has received reports about the use of force by police to deter these caravans, as well as the obstacles faced by them to leave their countries, such as blockades formed by security agents and police filters to require identity documents at border crossings. As for migration from Nicaragua to Costa Rica, the Commission also recognized Costa Rica's open door policy, while it closely observed difficulties faced by Nicaraguans who are forcibly displaced from their homes because of their political opinions and gross human rights violations in the context of the grave crisis affecting that country. These difficulties include completing migration procedures, attaining recognition of refugee status and gaining access to employment and education, among other services. The IACHR also views with concern the number of Venezuelan nationals who have been forced to flee Venezuela as a consequence of human rights violations, violence and insecurity, and persecution based on their political opinions as well as to address the effects of the food and medication shortage and medical treatment crisis and the difficulty to collect pensions, among other reasons. According to UNHCR and IOM figures, in early September 2019, the number of Venezuelans who left their country had totaled 4.3 million, of which 3.5 million were living in countries of Latin America and the Caribbean. This situation poses the largest migrant and refugee crisis of recent history in the Americas. On this score, the number of asylum seekers from Venezuela skyrocketed from 45,088 in late 2016 to 613,256 as of September 2019, which roughly works out to a 1,300% increase. In this regard, the Commission renews its call for the States of the region to address the situation of forced migration in the Americas in a framework of shared responsibility and with a human rights-based response, ensuring the rights of migrants and refugees, such as the right to seek and receive asylum, non-refoulement, non-discrimination and economic, social and cultural rights. Likewise, it urges States to refrain from adopting measures such as closing borders, placing restrictions on the entry of persons who might require international protection, carrying out migratory detentions, penalizing migrants for irregular entry or presence, requiring official documents for entry and issuing hate speech.

14. Lastly, the IACHR notes the situation of persons deprived of liberty as an ongoing challenge affecting the entire region and, in particular, reiterates its concern over the excessive use of pretrial detention in violation of international standards on the subject matter and high rates of prison overcrowding. On this score, the IACHR views with concern initiatives to add to the list of criminal offenses for which automatic pretrial detention would apply, thus turning it into an advance punishment before the person is tried. In addition, the IACHR observed that there continued to be high rates of prison overcrowding and conditions of detention that are incompatible with the dignity of persons deprived of liberty and detrimental to their lives and physical integrity. Likewise, the IACHR noticed acts of violence occurring in prisons that have led to the deprivation of life and serious infringement of the physical integrity of persons in the custody of the State. In this context, the IACHR reiterates the inescapable legal obligation of States as guarantors of the rights of persons deprived of liberty, to take concrete steps to ensure their lives and physical integrity.

ANTIGUA AND BARBUDA

- **General considerations**

15. In terms of progress, the IACHR takes note of the efforts made by the State of Antigua and Barbuda toward integrating persons deprived of liberty back into society. The Commission also notes the creation of a Sexual Offenses Model Court.

16. With respect to challenges, the IACHR notes that there continues to be inadequate conditions of detention of persons deprived of liberty in Antigua and Barbuda. In addition, the Commission reiterates its concern about criminalization of consensual relations between same sex adults in the country.

17. The State did not reply to the request for information submitted to it for the preparation of this chapter.

- **Specific issues**

18. With respect to the **institutionality of human rights** we note that Antigua and Barbuda has an Ombudsman's Office for the defense of its citizens' rights and that this office is a member of the Caribbean Ombudsman Association and the Commonwealth Forum of National Human Rights Institutions.² Furthermore, in 2019, the Sexual Offenses Model Court (SOMC) was launched with the support of the Judicial Reform and Institutional Strengthening Project (JURIST),³ for the purpose of introducing special procedures to rectify failings in the court's treatment of sexual offenses.

19. In terms of **democratic institutions**, the IACHR takes note of the of the State of Antigua and Barbuda's ranking in the 2019 report on the Rule of Law Index of the World Justice Project (WJP).⁴ This report examined provisions of law, based on a variety of factors, including the absence of corruption in the country, government effectiveness, respect for fundamental rights, as well as civil and criminal justice.⁵ According to this report, in 2019, Antigua and Barbuda was one of a few States that improved its ranking, while the ranking of most States dropped. Antigua and Barbuda ranked number 33 out of 126 countries assessed under this index for this year, moving up one place above its ranking from the previous year. Additionally, in the region of Latin America and the Caribbean, it took sixth place out of the thirty countries assessed in this report.⁶

20. As for **persons deprived of liberty**, the IACHR takes note of the creation of a committee tasked with drafting the necessary legislation to establish a system of parole to facilitate the social reintegration of incarcerated persons. Nonetheless, the IACHR reiterates its concern over the conditions of detention in the country. With respect to social reintegration of inmates, the State is working on developing a parole system for convicts. This program includes education and skills training to provide them with more tools to make it easier for them to integrate back into society.⁷

21. Regarding the conditions of persons deprived of liberty, available public information suggests that the situation is deplorable at Her Majesty's Prison facility. It is also reported that this prison does not provide inmates with adequate care or basic sanitation. In addition, the aforementioned prison houses approximately 300 inmates, while it only has the capacity for 150, thus accommodating twice as many

² [Commonwealth Forum of National Human Rights Institutions](#).

³ The Caribbean Court of Justice <https://www.cci.org/sexual-offences-model-court-launched/>

⁴ World Justice Project, [WJP Rule of Law Index 2019 performance](#), 2019.

⁵ World Justice Project, [WJP Rule of Law Index 2019 performance](#), 2019.

⁶ The Government of Antigua and Barbuda, "[Antigua and Barbuda Ranked 33 out of 126 countries on Rule of Law](#)", February 28, 2019.

⁷ The Daily Observer, "[Parole system on the horizon to strengthen prisoner reformation, reduce reoffending](#)", August 29, 2019.

prisoners as it has the capacity for.⁸ With respect to this situation, the IACHR has received information suggesting that a plan is being drawn up to build a facility at the Prison Farm complex on Duers' Estate, to hold persons in pretrial detention and for juvenile offenders.⁹

22. In this context, the IACHR underscores the need for the State to abide by international standards regarding adequate care of the persons in its custody. The Commission also reaffirms that one of the most important duties in this regard is to ensure the right to life and physical and psychological integrity of persons deprived of liberty. Accordingly, the IACHR calls on the State to adopt comprehensive public policies, in particular, to progressively increase the official budget to cover the needs of food, health, hygiene and water for persons deprived of liberty.

23. As for **violence against women**, the Commission has become aware of the creation of the Sexual Offenses Model Court (SOMC), which seeks to address current shortcomings faced by the Superior Court of Justice in managing cases of sexual offenses. This Court reportedly has the capacity to operate through enhanced video and audio links to hold any proceeding in a justice-promoting setting.¹⁰ The Commission welcomes these forward steps and reminds the State of its duty to investigate diligently, promptly and thoroughly all acts of sexual violence.¹¹

24. Regarding the **rights of LGBTI persons**, the Commission notes that the 1995 Law of Sexual Offenses (Law No. 9) is still in force, as well as Section 12 (Sodomy), which criminalizes consensual relations between adult men.¹²

25. As regards the death penalty, the IACHR finds it worrisome that it is still on the books in the country's laws, even though no executions have been carried out in recent years. The Commission notes, moreover, that, as of December 2018, there was no one in the State sentenced to the death penalty, according to Amnesty International's report on the subject of April 2019.¹³

ARGENTINA

- **General considerations**

26. In 2019, the IACHR took note of several instances of **progress** in Argentina in terms of human rights institutions, including implementation of the 2019-2023 National Anticorruption Plan, whose goal is to strategically plan and coordinate integrity and anticorruption policies of the centralized and decentralized National Public Administration. In addition, regarding women's rights, the Commission highlights approval of the law against street harassment, which specifically adds this form of harassment as a form of violence against women.

27. As for **challenges**, the IACHR paid close attention to widespread acts of violence perpetrated against women and LGBTI persons. In this regard, based on the information received by the Commission, between January 1 and November 20, 2019, at least 290 cases of murder of women in the country were reported. Additionally, the Commission took note of several acts of violence against LGBTI rights activists and defenders.

⁸ The Daily Observer, "[Society has a role to play in rehabilitating prisoners, consultant asks for help](#)", August 29, 2019.

⁹ The Daily Observer, "[Proposal for new prison takes a back seat](#)", July 24, 2019.

¹⁰ Judicial Reform and Institutional Strengthening (Jurist) Project, [SOMC to fast-track the delivery of justice in Antigua And Barbuda](#), January 21, 2019.

¹¹ IACHR, [Acceso a la Justicia para Mujeres Víctimas de Violencia Sexual: la educación y la salud](#), Access to Justice for Women Victims of Sexual Violence: education and health, OEA/Ser.L/V/II. Doc. 65, December 28, 2011, para. 157.

¹² IACHR, [Informe Anual 2018, Capítulo IV-A respecto de Antigua y Barbuda](#), 2018 Annual Report. Chapter IV-A Antigua and Barbuda, December 2018.

¹³ Amnesty International, [Global Report: Death Sentences and Executions](#), April 2019, p. 13.

28. The State replied to the request for information for preparation of this chapter.

- **Specific issues**

29. As regards **human rights institutions**, the IACHR notes that the country has an Office of the Ombudsperson of the Nation, which is a member of the Ibero-American Federation of Ombudsmen. Nonetheless, it reiterates its concern over the failure to appoint the head of the above-cited Office of the Ombudsperson, noting that the position has been vacant since 2009. It should be mentioned that the Office of the Ombudsperson has become a signatory to the IACHR Declaration of Commitment on Technical Cooperation and Points of Contact and has participated in the 3rd Meeting for the Exchange of Good Practices for National Human Rights Institutions, held in Medellín, Colombia. The Commission also welcomes the efforts put forward to appoint the head of the Office of the Children's Ombudsperson.

30. Additionally, the IACHR and the Republic of Argentina entered into a Cooperation Agreement¹⁴ in order to jointly develop Triangular Cooperation Programs to fight against discrimination based on sexual orientation, gender and sexual characteristic identity and expression and to promote and protect the rights of LGBTI persons. In this way, the agreement enables the Parties to carry out joint cooperation actions, utilizing their expertise and know-how on the subject matter.

31. With regard to **citizen security**, the Commission has closely followed initiatives to overhaul the Armed Forces, based on the need to modernize the army to address current challenges such as terrorism and drug trafficking.¹⁵ In this regard, several organizations have voiced their concern over the consequences that this overhaul may have on the exercise and protection of human rights, particularly, in allowing the military forces to engage in citizen security-related tasks. Likewise, in early 2019, the national government decided to move forward on implementing the use of Tasers,¹⁶ and concerns have been raised about the likelihood that they would be used inappropriately by the security forces and about the risks to the health and lives of the people on whom they will be used.¹⁷

32. As for the **rights of women**, the Commission has taken a positive view of the approval of the law against street harassment, which statutorily makes this form of harassment a form of violence against women.¹⁸ Additionally, the Commission has been apprised that the Ministry of Health and UNICEF have introduced guidelines to assist pregnant girls under 15 years of age, providing in this document tools to guide caring, respectful and prejudice-free intake and assistance for pregnant girls and adolescents.¹⁹

33. Notwithstanding, the Commission continues to view with concern the high rates of gender-based violence against women in Argentina. On this score, the Commission notes that based on monitoring of print and digital media, between January 1 and November 20, 2019, at least 290 cases of murder of women in the country were reported, 84% of which were perpetrated by men known to the women or by someone from their close circle and 74%, in their own homes.²⁰ The Commission has also been monitoring the situation of

¹⁴ [Acuerdo de Cooperación entre la CIDH y la República Argentina](#), ['Cooperation Agreement between the IACHR and the Republic of Argentina'], executed on May 22, 2019

¹⁵ El Día, [Macri anuncia un Proyecto de reforma de las Fuerzas Armadas](#), ['Macri announces an Armed Forces Reform Bill'], July 30, 2019.

¹⁶ Infobae, [El Gobierno anunció la compra de pistolas Taser: "Está probado que es muy eficaz para no tener que usar armas de fuego"](#), ['The Government announced the purchase of Taser guns: "It is proven that it is very effective at not having to use firearms"'], January 4, 2019.

¹⁷ La Arena, [Preocupación de Amnistía por DD.HH.](#), ['Concern about Amnesty for HR'], January 13, 2019.

¹⁸ Cosecha Roja, [Ley de acoso callejero: ¿qué cambió?](#), ['Law on street harassment: what changed?'], April 17, 2019.

¹⁹ El Sureño, [Salud y UNICEF, atención de menores](#), ['Health and UNICEF, assistance for juveniles'], August 7, 2019.

²⁰ Urgente 24, [En 2019 hubo 290 femicidios en la Argentina](#), ['In 2019 there were 290 femicides in Argentina'], November 25, 2019.

sexual and reproductive rights in the country, including the court ruling in Corrientes ordering a baby to be handed over in adoption before it was born. In addition, the IACHR takes note of the complaint brought by women's and children's rights defense organizations about several cases of pregnancies of young girls as a result of rape, claiming that every year nearly 2500 young girls give birth against their will.²¹ In this same vein, the Commission learned of the introduction of a draft bill before Congress to amend the Civil Code, which places further restrictions on the access to voluntary termination of pregnancy currently provided for in Argentina.²² The case of the girl "Lucía", who became pregnant at 12 years of age as a result of a rape, is particularly illustrative.²³ The child requested access to a legal abortion and when it was denied, a caesarian section was performed on her at 6 months of pregnancy.

34. Additionally, the Inter-American Commission has taken note of the information provided by the State about the publication of the protocol for comprehensive assistance to persons with the right to legal abortion, under Resolution 1/2019 of the Ministry of Health.²⁴ The document serves as guidance and a technical tool for health care teams that provide medical care and perform abortions in any of three situations previously included under the laws of the country.

35. As for the **rights of LGBTI persons**, in January 2019, the IACHR learned of the decision of the Ministry of Security of the Nation to offer rewards to anyone who provides information about the co-perpetrator of the femicide of trans social activist and defender of the rights of LGBTI persons Diana Sacayán.²⁵ Around the same time, the Commission received information about several acts of violence against LGBTI persons, such as assaults and harassment endured by Pablo Dell'Oso, because of his sexual orientation;²⁶ by trans activist Lara María Bertolini;²⁷ by a group of lesbian and gay young people following the close of the Festival of Diversity of the City of El Bolsón,²⁸ as well as the murders of trans activist Lucía Barrera in Entre Ríos,²⁹ Luciana Robledo, in Buenos Aires³⁰ and of human rights defender and gay artist Pablo Fullana Borsato, in Colón.³¹ In addition, there have been complaints about administrative barriers at offices of the Civil Registry of Tucuman, when trans persons request changes to their identity documents, in keeping with the gender they identify with.³²

36. With regard to the rights of **persons deprived of liberty**, the Commission has been informed of the situation of overcrowding at prison facilities throughout the country. According to the report of the Office of the Ombudsperson, this situation is associated with the steady increase and excessive use of pretrial

²¹ Momarandu.com, [Tras caso en Corrientes, denunciaron en CIDH falta de acceso a la ILE en niñas embarazadas por violación](#), [After case in Corrientes, petition filed with IACHR over lack of access to the ILE for girls pregnant from rape'], August 7, 2019.

²² Amnesty International, [Aborto: los cambios regresivos del nuevo Código Penal](#), August 16, 2019.

²³ El País, [El calvario de una niña violada que intentaba abortar en Argentina](#), [Ordeal of a girl who was raped and tried to get an abortion in Argentina'], March 28, 2019.

²⁴ Ministry of Health, [Protocolo para la atención integral de las personas con derecho a la interrupción legal del embarazo](#), [Protocol for comprehensive assistance to persons with the right to legal interruption of pregnancy'], December 13, 2019.

²⁵ Agencia Presentes, [500 mil pesos para encontrar al coautor del travestimiento de Diana Sacayán](#), [500 thousand pesos to find co-perpetrator of the murder of trans person Diana Sacayán'], February 7, 2019.

²⁶ Agencia Presentes, [Homofobia en Córdoba: le pegaron y lo dejaron inconsciente](#), [Homophobia in Cordoba: He was beaten and left unconscious'], January 9, 2019.

²⁷ Agencia Presentes, [#BuenosAires Agresión a activista travesti en San Telmo](#), [Buenos Aires Assault on transvestite activist in San Telmo'], January 9, 2019.

²⁸ Página 12, [Homofobia en El Bolsón](#), [Homophobia in El Bolson'], January 8, 2019.

²⁹ Agencia Presentes, [Transfemicidio en Paraná: asesinaron a la activista LGBT+ Lucía La Loba](#), [Femicide of trans woman in Parana: LDBT+ activist Lucia La Loba murdered'], July 19, 2019.

³⁰ Agencia Presentes, [Asesinaron a Luciana Robledo, una trans paraguaya que vivía en Argentina](#), [Luciana Robledo, a trans Paraguayan, who lived in Argentina, was murdered'], January 3, 2020.

³¹ Washington Blade, [Asesinan de 60 Puñaladas a un activista LGBTQ en Argentina](#), [LGBTQ activist stabbed to death 60 times in Argentina'], December 6, 2019.

³² Página 12, [Terror en el registro civil](#), [Terror at the civil registry'], August 16, 2019.

incarceration. This made the living conditions of detainees worse, for both those in temporary custody and those convicted and serving sentences.³³ The situation of persons deprived of liberty in the Province of Buenos Aires is of particular concern and, therefore, the IACHR calls on the State to promote measures throughout the country aimed at alleviating the high rate of prison overcrowding. The Commission was also apprised of the lack of resources faced by the National Committee for the Prevention of Torture (CNPT), which receives fewer resources than the amount established by law. Based on the information received by the Commission, budget constraints prevent the CNPT from conducting scheduled inspections and guaranteeing minimal staffing, from having its own workplace and from having Committee autonomy, in view of the fact that it is a body that must perform its duties throughout the territory of a country with a federal system.³⁴

37. In the area of the rights of **persons of African descent**, the Commission welcomes the inclusion of a question about ethno-racial self-identity to indigenous and Afro-descendant peoples on the 2020 National Population Census and Household Survey of the Argentine State, which will be carried out by the INDEC (National Institute of Statistics and Censuses). An agreement was reached in advance about this question with Afro-descendant organizations.³⁵

38. Additionally, the IACHR notes the recommendations of the United Nations Working Group of Experts on People of African Descent in the context of its official visit to Argentina in March, suggesting that the Argentine State must come to terms with the reality that people of African descent are a group living in a situation of vulnerability and deserving of special measures.³⁶ In this regard, the Commission recommends that the Argentine State follow up on and comply with the suggestions made by the United Nations Working Group on People of African Descent on its country visit to implement affirmative actions aimed at eliminating patterns of structural racial discrimination, institutional racism, xenophobia, exclusion and other related forms of intolerance based on ethno-racial factors or national origin.

39. In April 2019, the IACHR brought a case involving Argentina before the Inter-American Court of Human Rights about international responsibility of the Argentine State for the detention and subsequent death of an Afro-Uruguayan man, finding that there were no objective grounds to warrant the detention. In the report, the Commission underscores that the deprivation of liberty of a person cannot be on the grounds of suspicions and for reasons of citizen security that lack objectivity and, ultimately, are used arbitrarily, based on prejudice against and stereotypes of people of African descent.³⁷

40. Regarding the **rights of children and adolescents**, the Commission continues to monitor the socioeconomic situation of the country, which has a particular impact on this segment of the population. According to a report written by the Social Debt Observatory of the Catholic University of Argentina (ODSA

³³ Comité Nacional para la Prevención de la Tortura, Informe Anual a la Comisión Bicameral De La Defensoría Del Pueblo, [National Committee for the Prevention of Torture, Annual Report to the Bicameral Committee of the Office of the Ombudsperson], May 2019. Pág.7.

³⁴ Comité Nacional para la Prevención de la Tortura, Principales desafíos para cumplimiento de mandato del CNPT, Correspondencia con la Relatoría sobre Personas Privadas de Libertad de la CIDH. National Committee for the Prevention of Torture, Major challenges to comply with the mandate of the CNPT, Correspondence with the IACHR Office of the Rapporteurship for Persons Deprived of Liberty. November 15, 2019. IACHR archive.

³⁵ National Institute of Statistics and Censuses (INDEC), [Proyecto Censo Nacional de Población, Hogares y Viviendas. Ronda 2020. Argentina](#), [Draft National Population Census and Household Survey. Round 2020. Argentina], August 2019; Clarín, [Cómo será el Censo 2020, en el que por primera vez preguntarán por la identidad de género](#), [‘What will the 2020 Census look like when it will ask about gender identity for the first time ever’], August 27, 2019

³⁶ OHCHR, [Declaración a los medios del Grupo de Trabajo de Expertos de las Naciones Unidas sobre Afrodescendientes, al finalizar su visita oficial a la Argentina, realizada entre los días 11 y 18 de marzo de 2019](#), Statement to the media by the United Nations Working Group of Experts on People of African Descent, on the conclusion of its official visit to Argentina, 11-18 March 2019], March 18, 2019; News UN, [La invisibilidad de los afrodescendientes en Argentina ha de terminar](#), [‘Invisibility of Afro-descendants in Argentina must end’], March 18, 2019.

³⁷ IACHR, Press Release No. 102/19, [CIDH presenta caso sobre Argentina a la Corte IDH](#), IACHR Takes Case Involving Argentina to the Inter-American Court of Human Rights, April 24, 2018.

UCA), between 41.2 % and 63.4% of the 11.8 million children and adolescents in the country live in conditions of poverty.³⁸

41. Additionally, according to a study conducted by the United Nations Children’s Fund (UNICEF), suicide is the second highest cause of death of children and adolescents between 10 and 19 years of age, with statistics bearing out that 12.7 out of every 100,000 adolescents between the ages of 15 and 19 commit suicide.³⁹ Lastly, according to public information, the appointment of someone to serve as the Ombudsperson for Children, whose duty it is to monitor public policies on childhood, has still not been made even though this position was created in 2005 under the Law of Comprehensive Protection of the Rights of Children and Adolescents.⁴⁰

42. As for the **rights of stateless persons**, the Commission welcomes the measures taken by the Argentine State to eradicate statelessness. In particular, the IACHR takes a positive view of the enactment of Law No. 27.512 on Recognition and Protection of Stateless Persons, which is aimed at ensuring that stateless persons and applicants for recognition of statelessness fully enjoy their human rights, while regulating the procedure for the determination of status, and making naturalization easier for said persons.⁴¹ Additionally, the Commission notes the decision of the Office of the Chief Public Defender of the Nation (DGN Defensoría General de la Nación) to expand the legal authority of the Commission for the Comprehensive Assistance and Protection of Refugees and Seekers of Refugee Status, which operates under its mandate, in order to provide assistance to these persons under the procedures for recognition of said status, residency and citizenship.⁴²

43. In addition, as regards the **rights of migrants**, the IACHR received information about harsher policies. In particular, the Commission was apprised that foreigners, who had criminal records, as a consequence of enforcement of Decree No. 70/2017, which led to family separations, were expelled from the country. The IACHR takes note that said decree was found unconstitutional by the Fifth Chamber for Federal Administrative Claims in 2018. The Commission was also informed that the Provinces of Jujuy and Misiones were charging money to migrants or irregular residents for health care services, as well as that acts of persecution against Senegalese nationals and trans migrants were taking place in the City of Buenos Aires.⁴³

44. The Commission welcomes the creation of the “Program of Assistance for Venezuelan migrants,” which eases the requirements for Venezuelan citizens to be able to enter Argentina and obtain a temporary residency permit.⁴⁴

45. Regarding the issue of **memory, truth and justice**, the Commission became aware that the Argentine State received the final tranche of 49 pages of documents declassified by 16 law enforcement and intelligence departments and agencies of the United States about the Argentine military dictatorship.⁴⁵ The

³⁸ Aciprensa, [Más del 40% de niños y adolescentes viven en situación de pobreza extrema en Argentina](#), [‘More than 40% of children and adolescents live in situation of extreme poverty in Argentina’], May 5, 2019. *Ámbito*, [Alarmante: el 51.7% de los chicos son pobres en Argentina \(el nivel más alto en una década\)](#), [‘Alarming: 51.7% of children in Argentina are poor (the highest rate in a decade)’], June 6, 2019.

³⁹ Diario Popular, [El suicidio es la segunda causa de muerte de los adolescentes argentinos según Unicef](#), [‘Suicide is the second highest cause of death of adolescents in Argentina according to Unicef’], May 30, 2019.

⁴⁰ Agencia Nova, [Organizaciones civiles le exigen al Senado que ratifique el nombramiento del Defensor del Niño](#), [‘Civil organizations demand Senate ratifies appointment of Children’s Ombudsperson’], November 22, 2019.

⁴¹ Official Bulletin of the Republic of Argentina, [Ley General de Reconocimiento y Protección de las Personas Apátridas, Ley 27512](#), [‘General Law of Recognition and Protection of Stateless Persons’], August 28, 2019.

⁴² Ministerio Público de la Defensa, Defensoría General de la Nación, [Resolución DGN Número: RDGN-2019-1370-E-MPD-DGN#MPD](#), October 10, 2019.

⁴³ IACHR, Letter of Request for Information of March 6, 2019, IACHR archive.

⁴⁴ National Directorate of Migration, Argentina, [Disposición Normativa “Programa de Asistencia para Migrantes Venezolanos”](#), [‘Legal Provision “Program for Assistance to Venezuelan Migrants”’], January 29, 2019.

⁴⁵ Office of the Director of National Intelligence, [‘Argentina Declassification Project: Scope of Research’](#); CELS, [‘Sobre la desclasificación de archivos de la dictadura’](#), [‘Declassification of archives of the dictatorship’], April 12, 2019.

IACHR hails the initiative as an advancement in the rights of victims and society to know their past. Additionally, in the context of the commemorative visit it conducted to celebrate the 40th Anniversary of the on-site visit to the country, the Commission received information from victims' organizations about identifying and preserving memorial sites and judicial proof of gross human rights violations.⁴⁶ In this regard, it was noted that of the 762 sites registered by the Executive Branch as clandestine centers of illegal incarceration, only 25% have been identified and the situation of 21 memorial sites, whose preservation is threatened, was also underscored.⁴⁷ Additionally, the IACHR takes note of statistics released by the Office of the Prosecutor for Crimes against Humanity showing that from 2006 to 2019, 962 people were convicted of crimes against humanity and 44% of the 589 open cases of crimes of that type are at the preliminary investigation stage.⁴⁸ Additionally, the IACHR has received reports that, between 2013 and July 2019, 6,123 motions have been granted based on reparation laws and 42,699 case files are pending decision.⁴⁹

46. As for the situation of **freedom of expression** in Argentina, the Office of the Special Rapporteur closely monitored the issue in 2019, particularly focusing on a number of instances of attacks, threats and intimidation against journalists and communicators, by private individuals, public officials and the justice system. Likewise, there continue to be reports in the country of the use of police force in the context of protests and detention of demonstrators. This Office was also informed about the criminal complaint brought by the government against the organization Greenpeace because of a demonstration at an official event. The Rapporteurship also received troubling reports about the request of an Office of the Prosecuting Attorney for a news program to report the names of the journalists involved in a news item, judicial decisions that banned the news media from reporting on certain issues, as well as the conviction by the Supreme Court of Justice of a former union leader for his criticism of a public official and about the trial of Clarín journalist Daniel Santoro for alleged crimes of "attempted coercion and extortion," linked to information that he was receiving from a confidential source.

47. Lastly, the Special Rapporteurship highlights the advancements of the National Communications Entity (Enacom) in assigning licenses to community broadcasters from different provinces of the country. Likewise, it notes that no significant incidents affecting freedom of expression and free circulation of ideas and information were reported during the electoral process in the context of which a new government was elected on October 27.

THE BAHAMAS

- **General considerations**

48. The IACHR notes the **progress** made by the Commonwealth of The Bahamas in reducing crime rates in the country, as well as its effort to address procedural delay in the criminal justice system; participation of members of the LGBTI community in post-Dorian relief efforts and the upholding of the conviction for the murder of a homosexual by the Court of Appeals.

49. With respect to **challenges**, the IACHR notes continuing high homicide rates and widespread armed violence in the Bahamas. The Commission also points to a harshening of migration policies, continuing

⁴⁶ H.I.J.O.S., 'Situación de los Sitios y Espacios de Memoria del terrorismo de Estado', ['Situation of the Memorial Sites and Spaces of the State terrorism'] September 6, 2019 (in IACHR archive).

⁴⁷ Grandmothers of the Plaza de Mayo et al, Information submitted in the context of follow-up on IACHR Report No. 28/91, September 6, 2019, pg. 5 (in IACHR archives); H.I.J.O.S., 'Situación de los Sitios y Espacios de Memoria del terrorismo de Estado', ['Situation of the Memorial Sites and Spaces of the State terrorism'] September 6, 2019 (in IACHR archive).

⁴⁸ Office of the Public Prosecutor, '[Estado actual del proceso de juzgamiento: son 238 las sentencias dictadas, pero sólo un tercio se encuentra firme](#)', ['Current status of the trial proceedings: there are 238 judgments issued, but only one third are final,'] December 16, 2019.

⁴⁹ Grandmothers of the Plaza de Mayo et al, Information submitted in the context of follow-up on IACHR Report No. 28/91, September 6, 2019, p. 6 (in IACHR archive).

discrimination against the LGBTI community in the country and the State failing to amend its legislation to prohibit corporal punishment of children and adolescents in different settings.

50. The State replied to the request for information to prepare this chapter.⁵⁰

- **Specific issues**

51. Regarding the framework of **human rights institutions**, it must be noted that as of the time of the drafting of the instant report, the country does not have a national human rights system or office of the Ombudsperson; however, a legislative bill has been drafted on this topic.⁵¹

52. With respect to **citizen security**, the IACHR takes note of the measures adopted by the Commonwealth of The Bahamas to reduce the crime rates in the country. In this context, the Ministry of National Security announced that around \$17,000,000 were allocated to strengthen crime prevention forces in the country as part of the Citizen Security and Justice Program (CSJP). This program includes a variety of training courses on crime prevention for community leaders and youth education.⁵²

53. The IACHR also notes that security statistics released by the Ministry of National Security show a decrease in the murder rates in the Bahamas over the period of January to June 2019. According to these statistics, major crime trends have posted a 7% decrease as compared to 2018 statistics. Specifically, from early 2019 until June 11, murder rates have decreased by 21%, as compared to the previous year for the same period. Additionally, the Ministry of National Security indicated that armed robbery had decreased by 20%; and cases of rape had dropped by 29%.⁵³

54. Despite the significant improvement reported by the government, the Commission notes that, according to the 2019 Global Study on Homicide of the United Nations Office on Drugs and Crime, The Bahamas places among the top six countries with the highest homicide rate in Latin America and the Caribbean.⁵⁴ It is also relevant to consider that violence linked to firearms continues to be one of the predominant forms of violence in the country. In this regard, we can underscore that 35 of the 37 murders that occurred from early 2019 until June 11, cited above, were by gunshot.⁵⁵ On June 30, 2019, a “mass shooting” took place on the island of New Providence, where 17 people were wounded, including four victims under 18 years of age.⁵⁶ In this context, the IACHR regrets the high rates of armed violence in The Bahamas and calls on the State to take measures of effective gun control, along with measures to prevent and punish these acts.

55. As for **access to justice**, the IACHR recognizes the State’s efforts to address delay in the criminal justice system. On this score, the Office of the Attorney General has taken important initiatives to meet this challenge through the program known as Swift Justice (SJ). This program is aimed at increasing efficiency in the justice system and making sure that trial proceedings are carried out within a reasonable time. This program gave rise to a project known as “integrated justice,” which involves increasing efficiency of the judicial system through the use of information and communication technology. In addition, available information suggests that the Government of The Bahamas plans to create four additional criminal courts, as well as provide more judges, prosecutors and judicial staff to address this delay.⁵⁷

⁵⁰ Permanent Mission of the Commonwealth of the Bahamas to the OAS, Note OEA No. 260/2019.

⁵¹ [Ombudsman Bill, 2017](#). A bill an act to provide for the office of Ombudsman

⁵² Bahamas Information Services, Minister Ames Lauds Initiatives “[Beyond the Prison Walls](#)”, October 15, 2019.

⁵³ The Government of the Bahamas, “[Minister Dames Lauds RBPF While Releasing Crimes Figures](#)”, June 13, 2019.

⁵⁴ UNODC, [Global Study on Homicide](#), 2019. p. 24.

⁵⁵ BarbadosToday, “[Murders down 21 percent in Bahamas](#)”, June 21, 2019.

⁵⁶ Bahamas Information Services, “[DNA Responds To Mass Shooting in Montell Heights](#)”, June 30, 2019.

Bahamas Information Services, “[Mass Causality Incident-Multiple Gunshot Wounds Update](#)”, June 30, 2019.

⁵⁷ Permanent Mission of the Commonwealth of the Bahamas to the OAS, Note OEA No. 260/2019, pg. 3.

56. As regards the **rights of LGBTI persons**, the IACHR was informed that defenders of LGBTI persons' rights contributed to post Hurricane Dorian relief efforts,⁵⁸ with partnerships forming between human rights organizations to ensure access to basic services for the affected persons, especially LGBTI persons. In addition, the Commission takes note that a conviction by the trial court was upheld at the appeals stage in a case involving the murder of an allegedly gay man by another man.⁵⁹ Nonetheless, the Commission takes note as well of reports by LGBTI rights defenders of lingering attitudes stigmatizing and criminalizing LGBTI persons in The Bahamas, including by the police forces.⁶⁰

57. In the area of the **rights of children and adolescents**, the Commission was apprised on its working visit to The Bahamas, that the country adopted in 2013 a law for the immediate search for missing children providing for an alert system.⁶¹ Nonetheless, according to information from the organization Rise Bahamas, even though the State claimed in 2018 that the alert system would be up and running in "beta version," no alerts were issued for a number of cases of missing children between 2018 and 2019.⁶² Moreover, the Commission takes note that on August 21, 2019, the State entered into a contract to implement MARCO's Alert system and, therefore, the IACHR urges the country to continue to undertake efforts in this regard.⁶³

58. Additionally, the Commission notes that the Criminal Code of the country still allows parents and guardians to use physical punishment as a way of disciplining children.⁶⁴ The IACHR calls on the State to ban any form of violence and corporal punishment with children and adolescents in every setting of care, including the home and school place.

59. As for the **rights of migrants**, the Commission is concerned about the criminalization of migration, migration detention and deportation of migrants in The Bahamas, especially of persons of Haitian origin. The IACHR takes note of the decision of the State, taken in February 2019, to temporarily suspend repatriation of Haitians because of the disturbances currently unfolding in Haiti, while it ordered the security forces to be on maximum alert, and the preparation of a makeshift detention center.⁶⁵ Pursuant to public information, in August, October⁶⁶ and November,⁶⁷ the government deported and expatriated 337 Haitian citizens, who had remained in the country irregularly, including those affected by Hurricane Dorian.⁶⁸

60. Moreover, at a public hearing held at the 172nd Session, the Commission learned of a number of violations of the rights of migrants and their descendants in The Bahamas, as a consequence of the current policies on citizenship and migration that are allegedly based on racial, social, linguistic and economic distinctions, thus reportedly leading to racial discrimination and xenophobia, mostly against persons of Haitian origin and Bahamians of Haitian descentance.⁶⁹

⁵⁸ Washington Blade, "[Bahamas LGBTI activists contribute to Hurricane Dorian relief efforts](#)", September 8, 2019.

⁵⁹ The Nassau Guardian, "[Court rejects gay panic manslaughter defense](#)", June 8, 2019.

⁶⁰ Pink News, "[Gay travellers warned about homophobia risk in The Bahamas](#)", January 2019.

⁶¹ IACHR, Press Release No. 039/19 "[CIDH visita Barbados, Bahamas, Trinidad y Tobago y Jamaica](#)", [IACHR visits Barbados, Bahamas, Trinidad and Tobago and Jamaica], February 22, 2019.

⁶² Rise Bahamas, Unnumbered note about the MARCO's Alert, June 24, 2019, pg. 1. IACHR archive.

⁶³ Commonwealth of The Bahamas, "[Contract signed for MARCO's Alert System](#)", August 22, 2019.

⁶⁴ Global Initiative to end all Corporal Punishment of Children, "[Country report for Bahamas](#)", December 2018.

⁶⁵ Barbados Today, "[REGIONAL – Bahamas Govt places repatriations of Haitians on hold amid unrest](#)", February 18, 2019.

⁶⁶ The Government of Bahamas, Department of immigration, "[112 Haitian nationals repatriated from New Providence](#)", August 28, 2019.

⁶⁷ Eyewitness News, "[113 Haitians deported](#)", November 15, 2019.

⁶⁸ Miami New Times, "[Bahamian Government Resumes Deportation of Storm-Ravaged Immigrants](#)", October 3, 2019. Also see: The Haitian Times, "[340 Haitian Migrants Repatriated From The Bahamas](#)", November 16, 2019.

⁶⁹ IACHR, Public hearing on "[Derechos de las personas migrantes en Bahamas](#)", [‘Rights of migrants in The Bahamas’], May 19, 2019.

61. Additionally, the IACHR received reports of a special infringement of children's rights, inasmuch as under Bahamian legislation, children born in The Bahamas of foreign parents, who do not automatically acquire the nationality of their parents -such as the case of Haitians- are born stateless, and this status further precludes them from exercising other rights for which the State requires identity documents to have access to them. However, children of foreign parents are entitled to Bahamian citizenship only through an application that must be filed within a period of 12 months after turning 18 years of age.⁷⁰

62. As regards the **death penalty**, the IACHR finds it worrisome that it is still on the books in the country's laws, even though no executions have been carried out in recent years. The Commission notes, moreover, that, as of December 2018, there was no one in the State sentenced to the death penalty, according to Amnesty International's report on the subject of April 2019.⁷¹

BARBADOS

- **General considerations**

63. With respect to **progress**, the IACHR notes the ranking of the State of Barbados as the country of the Caribbean with the lowest rate of corruption according to Transparency International's 2018 Corruption Perception Index. Additionally, the Commission underscores the conviction of the assailant of trans persons' rights defender Alexa Hoffmann.

64. As for **challenges**, the IACHR notes the context of crime in Barbados, potential reinstatement of the mandatory death penalty and legislation in force that criminalizes the LGBTI community.

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

- **Specific issues**

66. Regarding the framework of **human rights institutions**, the IACHR recognizes the Office of the Ombudsman of Barbados and its participation as a member of the Caribbean Ombudsman Association and the Commonwealth Forum of National Human Rights Institutions.⁷² Likewise, the IACHR takes note of the interest of the authorities of the country in continuing and strengthening dialogue between the different sectors about the Inter-American Human Rights System and their commitment to protect human rights.⁷³

67. With respect to **citizen security**, the IACHR takes note that, according to Transparency International's 2018 Corruption Perception Index, Barbados ranks 25 out of 180 countries, ranking the highest among the Caribbean countries.⁷⁴ However, the Commission notes the context of crime in the country, as evidenced by increased armed violence in certain districts of the country.⁷⁵ From January to October 2019, Barbados has reported 41 murders. In particular, in October alone, at least four murders took place, with three cases involving firearm (one case involving a non-firing weapon) following an attack in the parish of St. Michael.⁷⁶

⁷⁰ IACHR, request for a public hearing at the 172nd Session, May 10, 2019, IACHR archive, pg. 2.

⁷¹ Amnesty International, [Global Report: Death Sentences and Executions](#), April 2019, p.13.

⁷² [Commonwealth Forum of National Human Rights Institutions](#).

⁷³ IACHR Press Release No. 39/19. [CIDH Visita Barbados, Bahamas, Trinidad y Tobago y Jamaica](#). IACHR Visits Barbados, The Bahamas, Trinidad and Tobago and Jamaica], February 22, 2019,

⁷⁴ Transparency International, [Corruption Perceptions Index 2018](#), 2019.

⁷⁵ Times Caribbean, "[Barbados Record Murder # 31](#)", July 4, 2019.

⁷⁶ Barbados Underground, "[Barbados Murder Statistics October 2019](#)", November 6, 2019.

68. As for the **death penalty**, the IACHR notes that, according to public information, hanging as a form of punishment could resume in Barbados. Public information suggests that the Ministry of Legal Affairs declared that all of the necessary legislative adjustments had been made to resume homicide trials and executions by hanging in the country. This transpired subsequent to a decision of the Caribbean Court of Justice that found Barbado's mandatory death penalty unconstitutional.⁷⁷

69. On this score, the IACHR reiterates that automatic imposition of the death penalty without consideration of the individual circumstances of the offense and of the offender is incompatible with the rights to life, humane treatment and due process. The Commission also regrets this potential backward step, in view of the fact that the State undertook to adopt reforms aimed at abolishing the mandatory death penalty, in light of the judgment of the Inter-American Court in the *Boyce* case.⁷⁸

70. Regarding the rights of **LGBTI persons**, the Commission became aware of the conviction of the assailant of trans human rights defender Alexa Hoffmann.⁷⁹ However, pursuant to the 2018 Annual Report, the IACHR notes that the Law of Sexual Offenses, Chapter 154, Section 9, continues to be in force and criminalizes consensual relations between adults of the same sex, as well as the 2002 Law of Sexual Offenses, which makes "serious indecency" a criminal offense.⁸⁰

BELIZE

- **General considerations**

71. Regarding **progress** achieved by the State, the IACHR highlights a drop in the general crime rate in Belize. It also welcomes the efforts put forward by the State towards the social reintegration of persons deprived of liberty and the promotion of the rights of older persons.

72. In terms of **challenges**, the IACHR notes the increased number of cases of sexual violence and corporal punishment of children and adolescents continues to be practiced.

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

- **Specific issues**

74. As for the framework of **human rights institutions**, the IACHR recognizes the Office of the Ombudsman of Belize and its participation as a member of the Caribbean Ombudsman Association and in the Commonwealth Forum of National Human Rights Institutes.⁸¹ In its 2018 annual report, the Office of the Ombudsman reported the investigation of 106 complaints of corruption, crime, injustice and abuse, including property damage and illegal detention.⁸²

75. With respect to **citizen security**, the IACHR notes a drop in crime rates in the State of Belize. According to statistics of the Observatory on Crime of Belize, from January to July 2019, the country reported 626 incidents of serious crimes, which represents a 16% decrease as compared to the same period in 2018, when the number was 829 incidents.⁸³

⁷⁷ Loop Jamaica, "[AG: Hangings can resume in Barbados, more judges to come](#)", July 11, 2019.

⁷⁸ IACHR, Report "[La pena de muerte en el Sistema Interamericano de Derechos Humanos: de restricciones a abolición](#)", ["The Death Penalty in the Inter-American Human Rights System: From Restrictions to Abolition"], OEA/Ser.L/V/II. Doc. 68, December 31, 2011, paras. 25 and 27.

⁷⁹ Erasing 76 Crimes, [Barbados: No jail time for violent attack on trans activist](#), on April 9, 2019.

⁸⁰ IACHR, [Informe Anual 2018: Capítulo IV-A sobre Barbados](#), 2018 Annual Report: Chapter IV-A Barbados, para. 64.

⁸¹ [Commonwealth Forum of National Human Rights Institutions](#).

⁸² Office of the Ombudsman, 18th Annual Report, March 12, 2019 <http://ombudsman.gov.bz/annual-reports/>

⁸³ Belize Crime Observatory, [Monthly Major Crimes Analysis](#), July 2019, pg. 1.

76. As regards the **death penalty**, the IACHR finds it worrisome that it is still on the books in the country's laws, even though no executions have been carried out in recent years. The Commission notes, moreover, that, as of December 2018, there was no one in the State sentenced to the death penalty, according to Amnesty International's report on the subject of April 2019.⁸⁴

77. Regarding the **rights of women**, the Commission notes that, from January to July 2019, there was an overall increase of 36% in cases of sexual violence in the country, with the number of cases of rape doubling. In this context, the IACHR calls on the State to provide effective protection against sexual violence in the country. It further urges it to strengthen the capacity of the judicial system to conduct criminal investigations and hold the perpetrators of these acts to account. In addition, the Commission calls on Belize to provide comprehensive training with a gender-based perspective to judicial officials, the police and other public servants to optimize reporting of cases of rape and all forms of gender-based violence in the country.

78. With respect to the rights of **persons deprived of liberty**, the IACHR highlights the State's efforts to implement a social reintegration program at the Central Prison of Belize. The program helps build the inmates' capacity to prepare them for life after prison. Specifically, based on available information, the program emphasizes teaching a trade and other skills. Additionally, inmates are engaged in agriculture, food preparation, construction initiatives, among other activities. The Commission also takes note of an initiative run by the Kolbe Foundation, which focuses on addressing the problem of drug and alcohol addiction and that has helped to reduce the recidivism rate in the country for drug-related crimes by 10%.⁸⁵

79. This year, in the context of the Expo on Aging, the National Council on Aging asserted that **older persons** account for more than 6% of the population of Belize according to 2010 figures⁸⁶ and it stated that making accessibility easier for this vulnerable group reduces social exclusion, allows these persons to be more independent with their financial transactions and reduces the risk of financial abuse; it promotes a culture of respect and thoughtfulness and makes them more visible to society.⁸⁷

80. As for the rights of **children and adolescents**, the Commission views with concern that even though the State made a commitment to ban all forms of physical punishment of children and adolescents back in 2009, there has not been significant progress in legal reform in this regard. According to updated information as of May 2019, Belize still allows physical punishment in the home, at alternative care facilities and at institutions of deprivation of liberty.⁸⁸ The IACHR calls on the State to prohibit any form of violence and of corporal punishment of children and adolescents in all care settings, including the home and schools.

BOLIVIA

- **General considerations**

81. With regard to **progress**, in 2019 the IACHR highlights the creation of the National Directorate for Disciplinary and Criminal Case Follow-Up, as well as steps taken to reduce prison overcrowding.

82. As for **challenges** faced by the State, the IACHR is concerned about a political and social crisis that was triggered by the election of October 20, 2019 and the intensity of these demonstrations has escalated since October 2019. Over this period, a broad range of civic and political actors, ethnic groups, and social movements took part in protests and mobilizations throughout the country. A number of private individuals

⁸⁴ Amnesty International, [Global Report: Death Sentences and Executions](#), April 2019, p.13.

⁸⁵ Public Safety, "[Belize Central: A model for Central American Prison](#)", October 21, 2019.

⁸⁶ Statistical Institute of Belize Census 2010 Report. BBN, [Belize observes International day of older persons](#), September 30, 2019.

⁸⁷ BBN, [Belize observes International day of older persons](#), September 30, 2019.

⁸⁸ Global Initiative to end all corporal punishment of Children, [Country report: Belize](#), May 2019, pg. 1.

from different groups resorted to violence in the course of those protests and mobilizations. The acts violating the rights of Bolivians observed by the IACHR were perpetrated in the course of the repression of the protests by different state agents.⁸⁹ The main reason why the current socio-political crisis is so complex is because of broad and multisectoral participation in the violence. Consequently, the IACHR and the Plurinational State of Bolivia entered into an agreement on December 12 to create a mechanism to support the investigation into the violence and human rights violations that took place in Bolivia from September 1 to December 31, 2019.⁹⁰

83. The State replied to the request for information sent to it for the preparation of this chapter.

- **Specific issues**

84. With regard to the **framework of human rights institutions**, the IACHR highlights the work done and support given by the Office of the Ombudsman of the Plurinational State of Bolivia, particularly in the context of the political and social crisis taking place in the country.

85. As for **democratic institutions**, the IACHR notes that once the Group of Auditors of the Organization of American States released the Report on the Electoral Process in Bolivia on November 10, President Evo Morales announced that new elections would be held and all of the members of the Plurinational Electoral Organ would be replaced. According to public information, the high command of the Armed Forces and the Bolivian Police called for the resignation of President Morales, who resigned hours later claiming he wished to keep the violence from continuing in the country after three weeks of violent clashes.⁹¹ In addition to the deepening political crisis, other senior government officials resigned, such as the Vice President of the Republic, the ministers of the cabinet and the presidents of the Legislative Chambers; and the interim government was subsequently installed with the endorsement of the Constitutional Court. By way of relevant background, in its 2018 Annual Report, the Commission expressed its concern about the effects of the 2017 decision of the Plurinational Constitutional Court overturning the result of the constitutional referendum of February 2016, when the constitutional amendment previously approved by the Legislative Assembly to extend the presidential term to make it possible to be continuously reelected for more than two terms, was defeated.⁹² According to public information, Bolivian election authorities have called for presidential elections to be held on May 3, 2020.⁹³

86. The Commission has noted that in the context of the widespread socio-political violence that was unleashed in the period leading up to and following the general elections, which was characterized by polarization, hostility and hatred, and was rooted in discrimination, intolerance and racism, a number of gross human rights violations with wide-ranging and regrettable consequences have taken place, which reach far

⁸⁹ IACHR, [CIDH presenta sus observaciones preliminares tras su visita a Bolivia, y urge una investigación internacional para las graves violaciones de derechos humanos ocurridas en el marco del proceso electoral desde octubre de 2019](#), IACHR presents its preliminary observations following its visit to Bolivia and requests an urgent international investigation takes place into the serious human rights violations that have occurred in the country since the October 2019 elections, October 2019, December 10, 2019.

⁹⁰ CIDH, [CIDH anuncia la creación de un Grupo Interdisciplinario de Expertos Independientes \(GIEI\) para coadyuvar las investigaciones de los recientes hechos de violencia y violaciones de los derechos humanos en Bolivia, así como la realización de una visita in loco al país](#), IACHR Creates an Interdisciplinary Group of Independent Experts (GIEI) to Support Investigations into Recent Violence and Human Rights Violations in Bolivia, and Announces an On-Site Visit to the Country, December 18, 2019.

⁹¹ IACHR, [CIDH rechaza violencia generalizada en Bolivia y llama al respeto de la institucionalidad democrática en el país](#), [IACHR rejects generalized violence in Bolivia and calls for respect for democratic institutions in the country, November 12, 2019.

⁹² IACHR, [CIDH presenta sus observaciones preliminares tras su visita a Bolivia, y urge una investigación internacional para las graves violaciones de derechos humanos ocurridas en el marco del proceso electoral desde octubre de 2019](#), The IACHR presents its preliminary observations following its visit to Bolivia and requests an urgent international investigation take place into the serious human rights violations that have occurred in the country since the October 2019 elections. December 10, 2019.

⁹³ NoticierosTelevisa, [Bolivia convoca a elecciones presidenciales para el 3 de mayo](#), [‘Bolivia calls presidential elections for May 3’], January 27, 2020; Infobae, [El Tribunal Electoral de Bolivia fijó para el domingo 3 de mayo las elecciones generales](#), [‘The Electoral Tribunal of Bolivia set Sunday May 3 for general elections’], January 3, 2020.

beyond the current wave of social protest, to the deepest levels of Bolivian society and have profound repercussions on daily life in the country.⁹⁴

87. As for **citizen security**, on its visit to Bolivia, the IACHR delegation received information about excessive use of force by the joint military-police forces in the context of containing the social protests in the country, which reportedly involved the loss of human lives in different incidents throughout the country. In this context, the Commission took note of the repeal of Supreme Decree No. 4.078, which had sought to exempt Armed Forces personnel who had participated in the operations to restore domestic order from criminal responsibility.⁹⁵ In connection with the crisis and through November 27, the IACHR delegation received information that 36 people lost their lives in Bolivia.⁹⁶ The information highlights deaths that took place on November 11 in the Zona Sur-Pedregal area of La Paz municipality; the massacre in Sacaba, Cochabamba, of November 15; and the massacre of Senkata, El Alto, on November 19.

88. Likewise, a number of people were wounded by gunshots or were injured by beatings, or as a result of indiscriminate use of teargas or by blunt objects. In the context of the protests, the IACHR took note of information provided by the Ombudsman's Office, which documented a gradual increase in the number of injured people, which went from 466 people on November 8 to at least 804 people on November 22. The IACHR noted that some people were allegedly injured by other protesters and social groups during the clashes and, according to information, law enforcement officers were also injured during events such as the protests in Plaza Abaroa on October 24, where three police officers were reportedly wounded. The Commission also stressed that violent clashes between private individuals have been continually present at the recent demonstrations and protests. In fact, the Commission noted that the gradual unfolding of the recent political and electoral events has led to the escalation of demonstrations and confrontations, which have been becoming increasingly violent.⁹⁷

89. Similarly, the Commission received information about several different violent acts endured by civilian as well as military and police officials, who were reportedly the victims of violence in the context of the sociopolitical crisis. The IACHR also learned of the deaths of police agents during the disturbances. Additionally, the Commission received information about looting and arson of public agencies by violent mobs and the repeated practice of surrounding government offices by demonstrators, preventing public officials and citizens from accessing and exiting, for different purposes and lengths of time.

90. Moreover, based on the information gathered, hundreds of persons were **detained** between the start of the protests and the visit of the IACHR delegation. According to information from the Office of the Attorney General of the State in its Report of November 26, 2019, most of the detainees are being held in pretrial detention. The information further indicates that those people have been confined both in prisons and holding cells at reintegration facilities, police stations and courthouses, and that in a number of instances the detentions have not been based on a prior arrest warrant, but have been carried out as a law enforcement preventive measure with little or no legal basis. The Commission repeatedly received reports of acts of physical and verbal ill-treatment, such as beatings, pistol-whipping, insults, threats or similar things, inflicted upon the

⁹⁴ IACHR, [CIDH presenta sus observaciones preliminares tras su visita a Bolivia, y urge una investigación internacional para las graves violaciones de derechos humanos ocurridas en el marco del proceso electoral desde octubre de 2019](#), The IACHR presents its preliminary observations following its visit to Bolivia and requests an urgent international investigation take place into the serious human rights violations that have occurred in the country since the October 2019 elections. December 10, 2019.

⁹⁵ IACHR, [CIDH presenta sus observaciones preliminares tras su visita a Bolivia, y urge una investigación internacional para las graves violaciones de derechos humanos ocurridas en el marco del proceso electoral desde octubre de 2019](#), The IACHR presents its preliminary observations following its visit to Bolivia and requests an urgent international investigation take place into the serious human rights violations that have occurred in the country since the October 2019 elections. December 10, 2019.

⁹⁶ CIDH, [CIDH presenta sus observaciones preliminares tras su visita a Bolivia, y urge una investigación internacional para las graves violaciones de derechos humanos ocurridas en el marco del proceso electoral desde octubre de 2019](#), 10 de diciembre de 2019.

⁹⁷ IACHR, [CIDH presenta sus observaciones preliminares tras su visita a Bolivia, y urge una investigación internacional para las graves violaciones de derechos humanos ocurridas en el marco del proceso electoral desde octubre de 2019](#), The IACHR presents its preliminary observations following its visit to Bolivia and requests an urgent international investigation take place into the serious human rights violations that have occurred in the country since the October 2019 elections. December 10, 2019.

detainees when they were apprehended by agents of the public security forces. In this regard, the IACHR took note of the November 22 report of the Office of the Ombudsman, which indicates that among the group of detainees that had been visited in the cells of the FELCC, 18 people had sustained injuries to different parts of their bodies, two of which were serious, and all required medical attention but it had not been provided.⁹⁸

91. The IACHR also received reports of judicial persecution of a number of people, through the opening of criminal investigations or case proceedings on the basis of their political opinions, convictions or positions, including their work as public officials during the MAS administration. Specifically, senior State officials at the ministerial level within the current interim government have issued public statements regarding the filing of complaints and the opening of criminal investigations against MAS party members on the grounds of treason and terrorism. The climate of judicial and extrajudicial persecution of dissidents and opponents has triggered a domino effect of mass resignations by public officials at all levels. For example, the Mayor's Association of Bolivia reported to the IACHR that no less than 65 local authorities allegedly resigned from office as part of the pattern of pressure and intimidation that is affecting daily life throughout the country. Furthermore, on November 17, it was announced that a special mechanism was to be created within the Attorney General's Office to enable legislators and other individuals to be arrested and prosecuted, allegedly on the grounds of subversion and treason. There were reports of threats that criminal proceedings for treason would be opened against a group of Argentine defenders and activists in Santa Cruz.

92. On the issue of **racial discrimination**, the IACHR took note that the demonstrations and protests in several instances degenerated into collective violence, much of which was in some way racist or discriminatory. The IACHR expressed its alarm over the different forms of hate speech and incitement to violence, to which a number of actors in the country have resorted. On this issue, the IACHR was informed that both public officials and private individuals have used such speech and incited violence, and that both groups have accused each other of inciting the general public to act violently. On several occasions, this coincided with the state's decision to prosecute members of the opposition, who it accused of having committed the crimes of treason, terrorism, and incitement to violence. In fact, both the ruling party and the opposition have accused one another of inciting the general public to resort to violence. The Commission also took note that those who took part in some demonstrations were consistent, as all of them said they were protesting against patterns and acts of racism and discrimination. The IACHR also drew attention to the information submitted by the Ombudsman's Office, in which it reports that it has documented dozens of racist and discriminatory acts in recent weeks, particularly, verbal acts of violence and some cases of stops and race and/or gender-based public humiliation.⁹⁹

93. The acts of racism and discrimination that were described to the Commission include those committed by the so-called *mujeres de pollera* (literally, 'skirt-wearing women'), in other words, **indigenous women** or women of indigenous and campesino ancestry who wear traditional attire as part of their culture and who make up the visible majority of the Bolivian population. In their statements, several people told the IACHR that they had joined the demonstrations and social protests because political organizations or specific social groups had humiliated, scorned, or demeaned in their speeches and statements these women, who include the protesters' mothers, sisters, aunts, or grandmothers. A number of witnesses observed that *mujeres de pollera* had been killed, beaten, injured, and humiliated by acts such as cutting their hair off.¹⁰⁰

⁹⁸ IACHR, [CIDH presenta sus observaciones preliminares tras su visita a Bolivia, y urge una investigación internacional para las graves violaciones de derechos humanos ocurridas en el marco del proceso electoral desde octubre de 2019](#). The IACHR presents its preliminary observations following its visit to Bolivia and requests an urgent international investigation take place into the serious human rights violations that have occurred in the country since the October 2019 elections. December 10, 2019.

⁹⁹ IACHR, [CIDH presenta sus observaciones preliminares tras su visita a Bolivia, y urge una investigación internacional para las graves violaciones de derechos humanos ocurridas en el marco del proceso electoral desde octubre de 2019](#). The IACHR presents its preliminary observations following its visit to Bolivia and requests an urgent international investigation take place into the serious human rights violations that have occurred in the country since the October 2019 elections. December 10, 2019.

¹⁰⁰ IACHR, [CIDH presenta sus observaciones preliminares tras su visita a Bolivia, y urge una investigación internacional para las graves violaciones de derechos humanos ocurridas en el marco del proceso electoral desde octubre de 2019](#). The IACHR presents its preliminary observations following its visit to Bolivia and requests an urgent international investigation take place into the serious human rights violations that have occurred in the country since the October 2019 elections. December 10, 2019.

94. As for the rights of **indigenous peoples**, the Commission took note of the impacts that the current situation has had on the rights of the indigenous peoples of Bolivia, who make up the majority of the population. The rights of this sector that were violated include the right to cultural integrity of indigenous persons as a result of burning, destroying and offending the Wiphala flag. The acts of offense to this cultural symbol of the Bolivian indigenous population, which includes burning and destroying it, have been committed by police agents, civic leaders and private citizens at a number of official settings, such as the Plurinational Legislative Assembly, and in public settings, as was the case in the central square of Cochabamba, among other instances. Likewise, a video clip of Santa Cruz police officers, cutting this symbol from their uniform, has widely circulated. These acts cause immediate outrage, offense and rejection among broad sectors of society, particularly indigenous and campesino sectors, and has been part of the motivation for many people to join the mobilizations.¹⁰¹

95. The IACHR recalls that incitement to violence and hate speech are prohibited under the American Convention, and even more so when they are used by public officials or social leaders to stoke further violence and social tension. Officials, leaders or other people, who display this type of incitement and speech must be held to account for the consequences that their statements have on the rights of the Bolivian people. Furthermore, under the American Declaration on the Rights of Indigenous Peoples, the native peoples of Bolivia are entitled to the integrity and dignity of their cultures.

96. Regarding **freedom of expression**, the Office of the Special Rapporteur for Freedom of Expression identified, during the country visit conducted by the IACHR on November 22-25, a number of violations of freedom of expression and access to information, including a possible murder, attacks and physical and psychological assaults, stigmatizing statements that encourage persecution of journalists, threats and intimidation, censure, surveillance and lack of access to public information.

97. In this context, the Special Rapporteurship received reports about the death, in murky circumstances, of the Argentine journalist, *Página 12* correspondent, Sebastián Moro, who was found unconscious at his home –some work tools missing, such as his notebook and his recording device- only to die six days later. Moro was covering the protests amidst the political crisis in Bolivia prior to being found unconscious in his apartment, and would have also been a witness to the attack and harassment of the director of the state radio broadcast Radio Tupak Katari and of the daily newspaper *Prensa Rural*, José Aramayo in La Paz and he would have filed his last report on the potential coup d'état in Bolivia to the newspaper in Argentina. It was further reported that the state-owned company Entel and the private companies Cotas and Comteco, without any reasonable explanation, cancelled the signals of the international channels TeleSur and RT Noticias. The IACHR notes that statements by senior government officials have contributed to a climate that muzzles the press because of an alleged lack of press guarantees. Lastly, the Special Rapporteurship also received reports of other violations of the exercise of freedom of expression in Bolivia leading up to the general elections of October during the term.

98. As of October 23, when the general strike was first called, demonstrators began to block the movement of people and goods throughout the country, at both airports and on highways, as well as on the main streets of cities. The roadblocks affected both social leaders, such as the president of the Pro Santa Cruz Civic Committee, as well as national lawmakers and common citizens, who were forced to abide by the constraints on traffic and access imposed by the different social sectors and by the public security forces. In this regard, the presidents of the Senate and the Chamber of Deputies recounted to the IACHR having been subjected to interrogations and harassment prior to being able to gain access to the premises of the Legislative Assembly in La Paz. According to the information received by the Commission, some of the check points were allegedly being operated by private armed groups, who were acting in collusion with the Police and the Armed Forces. During the visit of the IACHR delegation to Bolivia, it was reported that the main direct consequence of

¹⁰¹ IACHR, [CIDH presenta sus observaciones preliminares tras su visita a Bolivia, y urge una investigación internacional para las graves violaciones de derechos humanos ocurridas en el marco del proceso electoral desde octubre de 2019](#), The IACHR presents its preliminary observations following its visit to Bolivia and requests an urgent international investigation take place into the serious human rights violations that have occurred in the country since the October 2019 elections. December 10, 2019.

the roadblocks was short supply of food, fuel and basic staples, in addition to price increases. Health and education services were also affected, as well as tourism.

BRAZIL

- **General considerations**

99. As for **progress** in the area of human rights, the Inter-American Commission on Human Rights welcomes the different measures taken by the Brazilian State relating to the protection and promotion of the rights of migrants. Specifically, the IACHR lauds the investment in emergency assistance¹⁰² and in public policies¹⁰³ targeting Venezuelan migrants. In the same vein, the Commission welcomes Brazil's efforts to grant refugee status in a prompt and timely manner in response to the migratory crisis taking place in the region.¹⁰⁴ Furthermore, the IACHR takes note of the ruling of Brazil's Federal Supreme Court establishing that acts of homophobia and transphobia are criminalized conduct under the Racism Law (Law 7716/89), which criminalizes acts of discrimination for reasons of race, among other ones.¹⁰⁵

100. Regarding **challenges**, the IACHR is still concerned about the high rate of violent deaths in the country. Specifically, the IACHR is concerned about the high rates of cases of police use of lethal force in urban contexts in Brazil; the widespread gender-based murder of women in Brazil; as well as acts of violence against rural workers in Brazil. In the same vein, the Commission notes with extreme concern the critical situation of violence against human rights defenders, in particular quilombo¹⁰⁶ and indigenous¹⁰⁷ defenders. Lastly, the Commission notes with dismay the string of environmental disasters that led to loss of lives and impacts on the health of thousands of people, including the breaking of a containment dam of mining waste in the city of Brumadinho, in the State of Minas Gerais; the increasing deforestation and forest fires that affected the Amazon region in course of 2019; and the oil spills that took place in northeast part of the country beginning in November.

101. The State replied to the request for information for the drafting of this chapter.

- **Specific issues**

102. Regarding the **framework of the institutionality of human rights**, the IACHR views with concern the publication of Decree No. 9.759/2019, which dissolved the collegial bodies of social participation in the Federal Public Administration.¹⁰⁸ In the original version of the decree, it reduced number of councils provided for in the National Social Participation Policy (PNPS) and the National Social Participation System (SNPS) from 700 to fewer than 50.¹⁰⁹ The Commission also takes note of the decision of the Federal Supreme Court (STF) partially suspending the decree and restoring those bodies, which were created by statute

¹⁰² G1, [Governo libera R\\$ 223,8 milhões para assistência emergencial e acolhimento de venezuelanos](#), ['Government releases R\$223.8 million for emergency assistance and shelter for Venezuelans'], April 30, 2019.

¹⁰³ G1, [Governo, ONU e municípios assinam acordo para ampliar acolhimento de venezuelanos refugiados](#), [Government, UN and municipalities sign agreement to expand shelter for Venezuelan refugees'], October 2, 2019.

¹⁰⁴ DW, [Brasil concede refugio a 21.432 personas venezolanas en un mismo día](#), ['Brazil grants refugee status to 21,432 Venezuelans on a single day'], December 6, 2019.

¹⁰⁵ Al Jazeera, [Brazil's Supreme Court votes to make homophobia a crime](#), May 24, 2019.

¹⁰⁶ A Tarde, [Idoso é assassinado com golpes de machado no Quilombo Rio dos Macacos](#), ['Elderly man is axed to death in Quilombo Rio dos Macacos'], November 26, 2019.

¹⁰⁷ Folha de São Paulo, ['Guardião da floresta', líder indígena Guajajara é morto em conflito com madeireiros no Maranhão](#), ['Forest Steward,' Guajajara indigenous leader in conflict with loggers in Maranhão'], November 2, 2019.

¹⁰⁸ G1, [Decreto do governo Bolsonaro mantém apenas 32 conselhos consultivos](#), ['Bolsonaro government decree maintains just 32 consultative councils'], June 29, 2019.

¹⁰⁹ A Pública, [Governo federal não sabe quantos conselhos foram extintos nem qual será a redução de custos](#), ['Federal government does not know how many councils were dissolved or what the cost reduction will be'], April 17, 2019.

approved by the National Congress of the country.¹¹⁰ In this regard, available information suggests lingering obstacles to the working of the Mechanism to Prevent and Combat Torture at the state level.¹¹¹

103. In the context of its 173rd Session, in addition to receiving information about the restructuring measures of the collegial bodies, the IACHR received information about Decree No 9.831 of 2019, whereby the Federal Executive Branch of Brazil relieved of their duty the members of the National Mechanism to Prevent and Combat Torture, the body responsible for investigating and monitoring conditions of detention at facilities of deprivation of liberty, such as prisons, therapeutic communities and psychiatric hospitals. The Commission takes note of the decision of the Brazilian judiciary that has guaranteed, by court order, that the experts of the Mechanism would remain in their positions, as well as receive their State-paid remuneration.¹¹² In this regard, the Commission underscores the importance of respecting the autonomy and independence of civil society and emphasizes that public policies must take into account the points of view and demands of citizens over the entire cycle of the policy, in the interest of bringing about the effectiveness thereof and pluralism.

104. In the area of **citizen security**, the Commission welcomes the drop in the rate of violent deaths in the country by around 11% from 2017 to 2018; nonetheless, the Commission notes with extreme concern the fact that 11 out of every 100 intentional violent deaths were caused by the police in the country.¹¹³ Likewise, the IACHR reiterates its concern over the high rate of police use of lethal force against young people of African descent. Even though Afro-descendants represent 54% of the population, 75.4% of the total of 6,220 casualties caused by the police, that were reported in the period, were Afro-descendants, 99.3% were men, 77.9% were from 15 to 29 years of age.¹¹⁴ On this score, the IACHR urges the Brazilian State to implement public policies on citizen security that address the issue of violence from a human rights perspective. Moreover, the State must combat institutional racism, which is heightened by widespread practices, such as the use of racial profiling, targeted police persecution of Afro-descendants.

105. Additionally, the Commission takes note of the adoption of the “*Em frente Brasil*” program, which aims to address violent crime.¹¹⁵ The Commission welcomes the initiative to introduce a socioeconomic prevention focus into the program¹¹⁶; however, the IACHR warns the State of Brazil about any excessive militarization, which may arise in the implementation of said public policy in seeking to reduce violent crime in the country, as a result of the increased presence of the different police forces (i.e. federal, civilian and military).¹¹⁷

106. The Commission further notes that Decree 9.685 of 2019 was issued, regulating the registration, possession and trade of firearms and ammunition. This decree will make it easier for every citizen to be able to own up to four firearms. The authorized number of guns may be higher when the applicant can

¹¹⁰ Agência Brasil, [STF limita decreto do governo que extingue conselhos federais](#), [‘STF limits government’s decree dissolving federal councils’], June 13, 2019.

¹¹¹ As for the Mechanism to Prevent and Combat Torture in the state of São Paulo, on January 16, 2019, the governor of the state vetoed legislative bill No. 1.257/2014, which had been approved by the Legislative Assembly, whose purpose was to create this mechanism in the local sphere. In this context – in a letter of February 5, 2019, addressed to the Legislative Assembly of the state- both the IACHR and the OUNHCHR appealed to the Legislative Assembly to adopt the necessary measures to enable the creation, installation and operation of the Mechanism to Prevent and Combat Torture in the state.

¹¹² Agência Brasil, [Justiça mantém peritos no combate à tortura](#), [‘Justice keeps torture combating experts’], December 12, 2019.

¹¹³ Fórum Brasileiro de Segurança Pública, [Anuário Brasileiro de Segurança Pública \(2019\)](#), ISSN 1983-7364, Year 13, 2019.

¹¹⁴ Fórum Brasileiro de Segurança Pública, [Anuário Brasileiro de Segurança Pública \(2019\)](#), ISSN 1983-7364, Year 13, 2019.

¹¹⁵ Report submitted by the State of Brazil with information for the 4th Annual Report, December 2019, para. 29-30.

¹¹⁶ Agência Brasil, Governo [lança projeto-piloto de segurança pública em cinco cidades](#), [‘Government launches public security pilot project in five cities’], August 29, 2019.

¹¹⁷ Gazeta Do povo, [Moro lança principal aposta de combate ao crime violento: entenda projeto](#), [‘Moro makes major commitment to combat violent crime: understand the bill’], August 29, 2019.

prove necessity.¹¹⁸ In this regard, the Commission urges the State to adopt effective gun control legislation to prevent and substantially reduce violence, and develop effective public policies on citizen security, that take into account control over the war-making apparatus of the State.

107. The IACHR likewise heard of the draft legislative reform known as the “Anti-crime Package,” which, according to information furnished by civil society organizations during the [172nd Period of Sessions](#), could impair judicial remedies with respect to incarceration, impunity in cases of murders committed by State agents, and matters relating to self-defense, and, finally, the use made of plea bargains. Based on those reports, the Commission notes with concern the impact that those norms could have for persons of African descent and their already high incarceration rate, including a possible increase in the use of lethal force by police against Afro-descendant youths.¹¹⁹ The Commission was informed that the aforementioned regulatory package was approved in the National Congress and in Brazil’s Senate, after some of the provisions singled out above were deleted.¹²⁰ The IACHR reiterates, in this regard, that States are obliged to undertake a comprehensive review of their domestic orders with a view to identifying and repealing ostensibly neutral provisions, criteria, or practices that in fact could entail a particular disadvantage for persons pertaining to a specific group.

108. With regard to **access to justice**, the IACHR is still concerned about prison overcrowding in the country. According to statistics of the National Justice Council (CNJ), in 2019 the prison population was documented to be 812,000 persons nationwide, 41.5% of whom was made up of persons who were temporarily deprived of liberty while awaiting final disposition of their cases.¹²¹ On this score, the Commission emphasizes that, in order to use preventive detention more sparingly and thus alleviate prison overcrowding, it is important for the State to regulate, implement, oversee and promote the use of alternative measures to pretrial detention. In this vein, the Commission welcomes the decision of the Federal Supreme Court to prohibit incarceration of defendants at the appellate stage of proceedings, establishing that defendants may only be held in custody after all available judicial remedies have been exhausted.¹²²

109. As for the **rights of children and adolescents**, the Commission is pleased about the approval of Law No. 13.811, of 2019, which amends the wording of Article 1.520 of the Brazilian Civil Code to prohibit any exception to marriage of persons under the age of 16. The IACHR also notes the approval of the National Policy on Prevention of Self-mutilation and Suicide,¹²³ granting it the rank of a law, and the regulations issued by the National Justice Council creating special spaces to take the testimony of children and adolescents, pursuant to Law No. 13.431.¹²⁴

110. The Commission received information about cases of reversal of custody of children and adolescents under Law No. 12.318, the Law of Parental Alienation. According to the information received, there has allegedly been a pattern in reported cases, where the mother, who reports cases of violence, often sexual violence, loses the custody of her children to the alleged assailant parent.¹²⁵ This measure would be in line with subsection V of Article 6 of the aforementioned law, which allows the judge to reverse the custody as a form of

¹¹⁸ Official Gazette of the Union (Diário Oficial Da União), [Decreto Nº 9.685, De 15 de Janeiro De 2019](#), [‘Decree No. 9.685, of January 15, 2019’], January 15, 2019

¹¹⁹ Coalizão Negra por Direitos, [Vozes Negras sobre o Pacote Moro](#), agosto de 2019.

¹²⁰ Gazeta do Povo, [Pacote anticrime passa com folga no Senado e vai à sanção de Bolsonaro](#), 11 de diciembre de 2019.

¹²¹ G1, [CNJ registra pelo menos 812 mil presos no país: 41,5% não têm condenação](#), [‘CNJ registers at least 812 thousand inmates in the country: 41.4% have not been convicted’], July 17, 2019.

¹²² BBC Brasil, [Decisão do STF pelo fim da prisão após condenação em 2ª instância divide meio jurídico](#), [‘STF decision to end imprisonment until after appellate court conviction divides legal field’], November 8, 2019.

¹²³ Federative Republic of Brazil, Information from the State for the drafting of Chapter IV-A of the Annual Report, December 11, 2019, IACHR archive, pg. 14.

¹²⁴ IBDFAM, [CNJ regulamenta criação de espaços especiais para depoimentos de crianças e adolescentes](#), [‘CNJ regulates the creation of special spaces for testimonies of children and adolescents’], November 20, 2019.

¹²⁵ IACHR, Request for a public hearing in the context of the 173rd Regular Session, on enforcement of the Law of Parental Alienation in Brazil, IACHR archive, July 11, 2019.

redressing acts of parental alienation.¹²⁶ In this regard, in 2018, the Commission received 11 requests for precautionary measures on behalf of women who lost custody of their children under operation of the law of parental alienation. In 2019, three additional request for PM were received, which represents half of all requests for the protection of the rights of children and adolescents in Brazil.¹²⁷

111. The IACHR is also concerned about implementation of the State's project to adopt the civilian-military school model in more than 200 schools by 2033. According to publicly available information, the new schools will have retired and active members of the military (including former police officers), who would collaborate in education management and administrative affairs.¹²⁸ Regarding this shared management model, the Commission received information about violations of the rights of children and adolescents at schools of the Federal District (of Brasilia), the federative unit that adopted the model in 2019 as a test case in the country. The complaints included cases of assaults, harassment, abuse of authority, religious intolerance, sexual harassment and arbitrary restrictions of liberty.¹²⁹

112. With respect to the **rights of women**, the Commission expressed its concern over the alarming widespread incidence of gender-based murder of women in Brazil, given that at least 126 women were murdered in the first month of 2019 alone. In this regard, the Commission also learned about the increased number of femicides in the country.¹³⁰ In the first quarter of 2019, 37 women victims of femicide were reported in São Paulo, while in the same period in 2018, 21 cases were reported.¹³¹ The Commission calls on the State to implement comprehensive strategies to prevent these crimes, fulfill its obligation to investigate, prosecute and punish those responsible, as well as offer protection and full reparation to all victims.

113. The IACHR takes note of the State's efforts to ensure the participation of women in politics, in particular, the initiative to earmark 30% of the resources of the Electoral Fund for the campaigns of women candidates.¹³² Nonetheless, the IACHR is still concerned about the increase in manifold manifestations of discrimination and violence against women candidates and elected representatives. In this context, the Commission called on the State to not only thoroughly investigate the murder of city councilwoman Marielle Franco, but also to adopt measures of non-repetition.

114. With regard to **people of African descent**, the IACHR became aware of the potential impact of the legislative reform bill known as the "Anti-Crime Package," as expressed by civil society organizations, who at the 172nd Session voiced their concern over the potential consequences its implementation will have. In the first place, a defendant can be held in custody without all judicial remedies being exhausted. Secondly, the law is more lax in cases of murders committed by agents of the State -raising the issue of legitimate defense. And lastly, the institution of the plea bargain is applicable. The organizations noted that said law could impact the Afro-descendant population by leading to an increased incarceration rate among this group and raising the rates of police use of lethal force against Afro-descendant youth.¹³³ The IACHR learned that said legal package

¹²⁶ Federative Republic of Brazil, Law No. 12.318 "[Dispõe sobre a alienação parental e altera o art. 236 da Lei n° 8.069](#)". [Law No. 12.318 provides for parental alienation and amends article 236 of Law No. 8.069], Article 236 of August 2010, articles 2 and 6.

¹²⁷ IACHR, Archive, 2018 and 2019.

¹²⁸ Correio Braziliense, [MEC anuncia instalação de 54 novas escolas cívico militares para 2020](#), [MEC announces installation of 54 new civilian-military schools by 2020], November 21, 2019.

¹²⁹ Human Rights Committee of the Legislative Chamber of the Federal District, Report on the militarization of the schools of the Federal District, IACHR archive, December 2019, pgs. 5 and 6.

¹³⁰ Inter Press Service, [Aumentan los feminicidios, mientras cae la criminalidad en Brasil](#), [Femicides increase, while crime falls in Brazil], September 19, 2019; El País, [Sinais do aumento de feminicídios. Por que elas são mortas?](#), [Signs of increased femicides. What are women killed?], October 23, 2019.

¹³¹ Último Segundo, [Casos de feminicídio aumentam 76% no 1º trimestre em São Paulo](#), [Cases of femicide increase by 76% in the first quarter in Sao Paulo], April 29, 2019; São Paulo, [Estado de São Paulo tem recorde de registros de feminicídio em maio](#), [State of Sao Paulo holds the record for reported femicide in May], June 27, 2019.

¹³² Report submitted by the State of Brazil with information for the 4th Annual Report, December 2019, para. 7.

¹³³ Coalizão Negra por Direitos, [Vozes Negras sobre o Pacote Moro](#), [Black voices on the Moro package], August 2019.

was approved by the National Congress and in the Senate of the country with some of the provisions cited above being stricken from it.¹³⁴ The IACHR recalls that States are obligated to undertake a thorough review of their domestic body of laws in order to identify and repeal any provisions, criteria or practices that are apparently neutral, but potentially place persons belonging to a particular group at a disadvantage.

115. Additionally, in the context of the 173rd Session, the Commission was informed of a number of situations of religious racism, that have cropped up in the Brazilian State. According to publicly available information, the number of cases of religious intolerance has increased by 51%.^{135 136 137} In such cases, religions of African origin, such as Candablé, Umbanda, among other ones, have been maligned and offended. The IACHR issues a call to take urgent steps aimed at ensuring the right to freedom of religion or belief of persons or communities who are followers of religions of African origin.¹³⁸

116. The Commission also expressed its concern over the case of the Quilombola Community of Alcantara, in a communication submitted to the Chamber of Deputies of Brazil on October 22, 2019, in reference to draft law No. 10.372/2018 on “Technological Safeguards Relating to the Participation of the United States of America in launchings from the Alcantara Space Center.” The IACHR reaffirmed the principal standards and pronouncements relating to Afro-descendant tribal peoples in the Inter-American system. In this vein, the IACHR underscores to the State that the right to property of Afro-descendant tribal peoples vis-à-vis extraction or development plans and projects, that are intended to be executed within their territories, involves the effective participation of these peoples in accordance with their customs and traditions, in relation to any development, investment, exploration or extraction plan.

117. The Commission also noticed an increase in violence against human rights defenders and defenders of Afro-descendants’ land and territory. In particular, the Commission voiced its concern regarding the murder of Jozé Izídio Dias, in Quilombo de Rio dos Macacos, in Simões Filho, Salvador, Bahía. As part of its on-site visit to Brazil, in November 2018, the IACHR traveled to the community, where it was told about the increased violence due to the lack of demarcation of the traditional territory as a result of a legal dispute with the Armed Forces in the area. Accordingly, the Commission reminds the State that, in accordance with inter-American standards, the State is duty-bound to guarantee the use and enjoyment of the territories they have traditionally occupied to the quilombola traditional peoples of African descent, which means that those territories must be recognized, titled, mapped, and demarcated in accordance with special procedures and consultation and with their prior, free, and informed consent.

118. As for the **rights of indigenous peoples**, in the context of the 171st Session, the IACHR has received compelling information about issues faced by indigenous peoples in Brazil, specifically: trespassing of outsiders onto their territories; failure to delimit, demarcate and title indigenous lands; persecution and violence against defenders and leaders; and lack of protection for indigenous peoples in voluntary isolation. Likewise, in the context of its 173rd Session, the IACHR was briefed about transnational corporations’ responsibility for the negative impacts on the Brazilian Amazon region. The IACHR has also become aware of the attack perpetrated on the surveillance base of the National Indian Foundation (FUNDAI), located on the indigenous territory of the Valle de Javari in Rondonia. The attack was reported by the Coordinators of the Univaja Indigenous Organization, on behalf of the Marubo, Mayoruna (Matsés), Matis, Kanamary, Kulina (Paño), Korubo and Tsohom-Djapá peoples. In this regard, the IACHR notes with concern that this type of incident has

¹³⁴ Gazeta do Povo, [Pacote anticrime passa com folga no Senado e vai à sanção de Bolsonaro](#), [‘Anti-crime package passes easily in the Senate and goes to Bolsonaro for signing’], December 11, 2019.

¹³⁵ Folha De S. Paulo, [Debate sobre racismo religioso aumenta dentro de igrejas e opção evangélicos](#), [‘Debate on religious racism increases within churches and opposes evangelicals’], July 27, 2019

¹³⁶ Oásis, [Preconceito de fé. A escalada do racismo religioso no Rio](#), [‘Prejudice against faith. Escalation of religious racism in Rio’], August 28, 2019

¹³⁷ Brasil de Fato, [Por que Racismo Religioso e não apenas Intolerância Religiosa?](#), [‘Why religious racism and not just religious intolerance?’] July 11, 2019

¹³⁸ OAS, General Assembly, [Extracto sobre la libertad religiosa](#), [Section on freedom of religion], AG/CG/doc.2/19 rev. 1, June 28, 2019.

allegedly taken place on prior occasions, and calls on the State to protect the units that protect indigenous lands.¹³⁹

119. Furthermore, in a report submitted to the IACHR, the State made reference to the enactment of Decree No. 9.937/2019 of the Program for the Protection of Human Rights Defenders, Communicators and Environmentalists, which provides protection for threatened human rights defenders on the territory and is mostly focused on indigenous rights defenders. Additionally, it reported that from January to August 2019, FUNAI conducted 567 territorial protection operations throughout the country, 55 of which were on indigenous lands, located in the Legal Amazon region (comprising the 9 states of the Amazon basin); 329 were prevention-related; 252 were in the Legal Amazon; and 27 were information-related operations.¹⁴⁰

120. The Commission notes the efforts of the Brazilian State to establish measures to protect indigenous lands and territories. Nevertheless, the Commission is concerned about the systematic acts of aggression against those areas in 2019. They included, in particular, the eviction of the Tremembé do Engenho indigenous peoples from their territories and the destruction of their houses and plantations by police¹⁴¹; the alleged invasion of indigenous territory and the murder of a wajãpi indigenous leader in the state of Amapá; the eviction of the Kinikinau indigenous community from its ancestral territory, with excessive use of force.¹⁴²

121. The Commission observes, with deep concern, the acts of violence committed against indigenous leaders, such as the murders of tribal chiefs (*caciques*) Firmino Praxede Guajajara, of the Cana Brava Indigenous Land, and Raimundo Belnício Guajajara, of the Lagoa Comprida Indigenous Land, on December 7, 2019 in the municipality of Jenipapo dos Vieiras, in the state of Maranhão.¹⁴³ It also takes note of the murder of Maciel Pereirados Santos, who worked for the National Indian Foundation (FUNAI), and of repeated acts of violence in and around indigenous territories in northern Brazil.¹⁴⁴

122. In this same vein, the IACHR become aware of efforts to weaken institutions that are reportedly affecting the National Indian Foundation (FUNAI) itself and the Brazilian Institute of the Environment and Natural Resources (IBAMA).¹⁴⁵ In that context, the Commission has received information relating to the case of the complex of hydroelectric power plants on the Teles Pires river, located between the States of Mato Grosso and Pará, the Tapajós River basin. The IACHR is concerned that because the environmental agency of Mato Grosso has granted the operating licenses, the complex of four large power plant has allegedly begun to operate despite Public Civil Actions brought by the Federal Public Prosecutor's Office and State of Mato Grosso.¹⁴⁶

123. As for the rights of **LGBTI persons** in Brazil, the IACHR applauds the ruling of the Federal Supreme Court of Brazil¹⁴⁷ ordering acts of homophobia and transphobia to be prosecuted under the law criminalizing racism. In addition, the Commission noted that the Court of Justice of Río Grande do Norte vacated

¹³⁹ Cotidiano, [Base da Funai que protege índios isolados teria sido atacada por tiros de espingarda](#), [‘Funai base that protects isolated Indians reportedly attacked by gunfire’], November 02, 2019.

¹⁴⁰ Report submitted by the State of Brazil with information for the Annual Report, chapter IV, December 2019, para. 35.

¹⁴¹ CIDH, Carta de Solicitud de Información del 28 de diciembre de 2018, Archivo de la CIDH.

¹⁴² CIDH, Carta de Solicitud de Información del 3 de septiembre de 2019, Archivo de la CIDH.

¹⁴³ CIDH, Comunicado de prensa No. 320/19. [ONU Derechos Humanos y CIDH condenan asesinatos de líderes indígenas en Maranhão, Brasil](#), 9 de diciembre de 2019.

¹⁴⁴ CIDH, Carta de Solicitud de Información del 25 de septiembre de 2019, Archivo de la CIDH.

¹⁴⁵ Associação Interamericana para a Defesa do Ambiente; International Rivers; Conectas; Fórum Teles Pires; Operação Amazônia Nativa, “Request for hearing on successive setbacks in the guarantee of the human rights of indigenous peoples in Brazil,” pg. 7 [in IACHR archive], March 06, 2019.

¹⁴⁶ Associação Interamericana para a Defesa do Ambiente; International Rivers; Conectas; Fórum Teles Pires; Operação Amazônia Nativa, “Request for hearing on successive setbacks in the guarantee of the human rights of indigenous peoples in Brazil,” pg. 7 [in IACHR archive], March 06, 2019.

¹⁴⁷ Al Jazeera, [Brazil's Supreme Court votes to make homophobia a crime](#), May 24, 2019.

the ban on blood donations based on sexual orientation,¹⁴⁸ while the Regional Labor Court of the 18th Region convicted a company for prohibiting a trans woman from using the bathroom corresponding to her gender identity.¹⁴⁹ The Commission also takes note of a number of events relating to cultural rights in Brazil, mainly, the decision of the Federal Supreme Court¹⁵⁰ to prevent censorship of a comic book that depicted a kiss between two men, but also of several attempts to prevent the promulgation of documents related to LGBTI issues in Rio de Janeiro.¹⁵¹ As for acts of violence and discrimination, the IACHR received information about extremely cruel, violent murders mostly, of trans women, such as the case of Quelly da Silva, whose heart was torn out by the murderer, who then put the image of a saint in its place.¹⁵²

124. In the same vein, the Commission learned of the situation of former federal deputy Jean Wyllys, who left the country because of death threats against him,¹⁵³ in spite of the fact that he and his nuclear family are beneficiaries of IACHR precautionary measures in effect.¹⁵⁴ Those measures were granted given the grave risk to his life and personal safety following a series of acts of intimidation, including explicit death threats and allusions to attacks on him and his family due to his sexual orientation and his work on behalf of LGBTI persons in Brazil.

125. With respect to the situation of **persons deprived of liberty**, the Commission reiterates its concern over the acts of violence that consistently take place in Brazilian prisons and have led to deprivation of life and serious violations of the right to humane treatment of persons in the custody of the State. Specifically, the IACHR condemns the acts of violence, that took place in four prisons of the state of Amazonas, in May 2019, which led to the loss of life of at least 57 people and four injured people. Likewise, the Commission expressed its dismay over the massacre that took place at a prison in the state of Pará, which led to the loss of life of at least 62 people.

126. Moreover, the Commission cites complaints of systematic practices of torture, physical, psychological and sexual violence in prisons of the State of Pará, as reported by the Office of the Public Prosecutor.¹⁵⁵ According to information received by the IACHR, the practices were used more frequently in the context of operations of the Prison Intervention Task Force (FTIP), particularly against women deprived of liberty in the states of Amazonas, Rio Grande do Norte and Roraima.¹⁵⁶ In this context, the IACHR reiterates the ineluctable legal obligation of the Brazilian State to act as guarantor of the rights of persons deprived of liberty, to carry out concrete actions to ensure their lives and physical integrity. Likewise, the State must investigate and punish acts of violence at prison facilities and prevent criminal organizations with a presence in prisons from operating.

¹⁴⁸ Portal do Rio Grande do Norte, [TJRN proíbe Estado de impedir doação de sangue por causa de orientação sexual](#), [‘TJRN prohibits State from preventing blood donations based on sexual orientation’], July 24, 2019.

¹⁴⁹ Extra, [Justiça condena empresa que impediu funcionária transexual de usar banheiro feminino](#), [‘Justice convicts a company that prevented a transsexual employee from using the women’s bathroom’], July 31, 2019.

¹⁵⁰ Folha de S. Paulo, [Supreme Court Blocks Brazil Mayor from Banning Comic Book over Gay Kiss](#), September 9, 2019.

¹⁵¹ Left Voice, [Brazilian Police Attempt to Confiscate Book Due to “Homosexual Content”](#), September 9, 2019.

¹⁵² Huffpost Brazil, [Quelly da Silva: O nome da travesti que foi assassinada e teve o coração arrancado](#), [‘Quelly da Silva: The name of the transvestite who was murdered and whose heart was ripped out’], January 22, 2019.

¹⁵³ BBC News, [Jean Wyllys: Gay Brazil politician will not return over death threats](#), January 24, 2019.

¹⁵⁴ CIDH, [Resolución 85/2018 Medida Cautelar No. 1262-18. Jean Wyllys de Matos Santos y familia respecto de Brasil](#), 20 de noviembre de 2018.

¹⁵⁵ BBC, [Prego no pé, spray de pimenta e beijo forçado: as torturas em prisões do Pará segundo o Ministério Público](#), [‘Driving nails into feet, pepper spraying and forced kissing: tortures in prisons of Pará according to the Public Prosecutor’s Office’], October 9, 2019.

¹⁵⁶ National Mechanism to Prevent and Combat Torture - MNPCT and the National Committee to Prevent and Combat Torture - CNPCT, [Relatório de Monitoramento de Recomendações: Massacres Prisionais dos Estados do Amazonas, do Rio Grande do Norte e de Roraima](#), [‘Recommendations Monitoring Report: Prison Massacres of the States of Amazonas, Rio Grande do Norte and Roraima’], 2018.

127. **Persons 65 years of age and older** make up 10.5% of the total Brazilian Population, at 21.87 million persons.¹⁵⁷ The aging population reinforces the need for policies aimed at older persons. As for the right to health, the IACHR notes that 75% of the population of older persons depend exclusively on the Single Health System (Sistema Único de Salud).¹⁵⁸ The World Health Organization, for its part, asserted that for this year the health priorities of older persons were non-communicable chronic diseases, the impact of the flu and primary care.¹⁵⁹

128. As for the right to work, according to statistics of the Secretariat of Labor of the Ministry of Economy, the number of persons 65 and older working with a formal contract rose from 484 thousand in 2013 to 649.4 thousand in 2017, a 43% increase over a four year span. Greater demand for employment of older persons brings higher unemployment rates of this population group.¹⁶⁰ Unemployment among the elderly went from 18.5% in 2013 to 40.3% in 2018. This is mostly due to the increase of older persons working, a lack of income and their searching for ways to make ends meet, which is greater in the context of the current Brazilian economic crisis.¹⁶¹

129. Regarding **human rights defenders**, the IACHR has continued to document the murder of those who defend access to land and the environment. The IACHR condemns, *inter alia*, the murders in March 2019 of Dilma Ferreira Silva, coordinator of Tucuruí of the Movement of Persons Affected by Dams of Brazil (Movimento dos Atingidos por Barragens – MAB), her husband, Claudionor Costa da Silva, and a friend, Milton Lopes in the municipality of Baião, in the state of Pará. Dilma Ferreira Silva was an accomplished defender and renown leader who fought for the rights of persons affected by the Tucuruí hydroelectric dam. Additionally, it documented the death of environmental activist Rosane Santiago, who was tortured and murdered, in the city of Nova Viçosa, state of Bahia, on January 29. The IACHR further condemns the murder on June 5, 2019 of Aluciano Ferreira dos Santos, a farmer and member of the Landless Workers' Movement (Movimiento Sin Tierra or MST). On July 22, 2019, indigenous leader Emyra Wajãpi was murdered.¹⁶²

130. As for harassment, intimidations and threats, the IACHR voiced its concern that in June the federal deputy and LGBTI rights activist David Miranda claimed to have handed over to the federal police a document with new death threats against him. These latest threats are in addition to those leveled against his husband, Glenn Greenwald, in the course of the performance of his job as a journalist. On August 10, human rights defender Antônio Luiz Marchioni was threatened with death by religious extremists after participating in a debate on sexual and reproductive rights and drug policy.¹⁶³

131. Likewise, on March 8, 2019, the IACHR granted precautionary measures on behalf of Julio Renato Lancellotti, human rights defender of homeless people and head of the “Pastoral del Pueblo de Calle”

¹⁵⁷ The Brazilian population of 65 and older grew by 26% from 2012 to 2018. Survey “General characteristics of households and residents 2018,” Report of the Brazilian Institution of Geography and Statistics (IBGE). Valor Económico, [População idosa no Brasil cresce 26% em seis anos](#), [‘Elderly population in Brazil grows by 26% in six years’], May 22, 2019.

¹⁵⁸ According to the Older Persons Health Longitudinal Study of Brazil, *Brazilian Society of Geriatrics and Gerontology*, [OMS divulga metas para 2019: desafios impactam a vida de idosos](#), [‘WHO releases 2019 goals; challenges impact the life of the elderly’], January 27, 2019.

¹⁵⁹ *Brazilian Society of Geriatrics and Gerontology*, [OMS divulga metas para 2019: desafios impactam a vida de idosos](#), [‘WHO releases 2019 goals; challenges impact the life of the elderly’], January 27, 2019.

¹⁶⁰ Agência Brasil, [Total de idosos no mercado de trabalho cresce: precariedade aumenta](#), [‘Total number of older persons in the labor market grows; precariousness increases’], May 1, 2019.

¹⁶¹ Encuesta Nacional Continua de Muestras de Hogares (PNAD). Agência Brasil, [Total de idosos no mercado de trabalho cresce: precariedade aumenta](#), [‘Total number of older persons in the labor market grows; precariousness increases’], May 1, 2019.

¹⁶² IACHR, Press Release No. 132/19, [CIDH y las Oficinas de ONU Derechos Humanos expresan su preocupación por la situación de personas defensoras de derechos humanos en el primer cuatrimestre del año](#), [IACHR and Regional Branches of the OHCHR Concerned about the Situation of Human Rights Defenders in the Americas in the First Four Months of 2019], May 30, 2019.

¹⁶³ IACHR, Press Release No. 288/19, [CIDH y las presencias de ONU Derechos Humanos reiteran su llamado para la creación de un ambiente propicio y seguro para quienes defienden los derechos humanos en la región](#), [‘IACHR and UN Human Rights Presences Once Again Call for the Creation of a Safe, Favorable Environment for Human Rights Defenders in the Americas’], November 7, 2019.

in São Paulo, and Daniel Guerra Feitosa, a homeless, on account of his being the victim of a number of acts of violence and threats, including some perpetrated by public security force agents.¹⁶⁴

132. At the same time, the Commission acknowledges the State's efforts to throw light on the circumstances of the death of human rights defender and councilwoman, Marielle Franco, particularly the identification and imprisonment of those suspected of having committed the crime. The Commission reiterates its call for the State to ensure a rigorous, independent, and impartial investigation of the case,¹⁶⁵ taking into account the possible ties of members of the police and other State agents to the murder and geared to identifying and prosecuting not just the perpetrators, but also the instigators, of the crime. The Commission remains concerned, in this connection, at the increase in the already extensive manifestations of discrimination and violence against women candidates and women who have been elected representatives. In that context, the [Commission called upon the State](#) not only to conduct an exhaustive inquiry into the murder of councilwoman Marielle Franco, but also to adopt non-repetition measures.

133. With regard to **memory, truth and justice**, the Commission appreciates the investigations that have been conducted by the Office of the Federal Public Prosecutor, which led to the filing of 8 new complaints for gross human rights violations perpetrated during the civilian-military dictatorship,¹⁶⁶ and takes note of the opening of two new cases for crimes committed in that context.¹⁶⁷

134. However, the IACHR regrets the rulings closing the criminal proceedings relating to the Riocentro attack case and the Luiz Eduardo Merlino case, respectively, on the grounds of the lapsing of the statute of limitations and amnesty for the gross violations discussed in these cases.¹⁶⁸ In this regard, the Commission reminds the State of its obligation to remove any *de jure* or *de facto* obstacle that impedes the investigation and prosecution of the acts related to violations of that nature and, when appropriate, to punish everyone responsible. Additionally, the IACHR has been informed of changes in the composition of the Special Commission on Political Deaths and Disappearances and the Amnesty Commission, that could compromise the independence and impartiality of these organs in their efforts to search for the victims of forced disappearance and provide reparation for them.¹⁶⁹

¹⁶⁴ IACHR, Resolution 11/2019, [Medida Cautelar No. 1450-18, Julio Renato Lancellotti y Daniel Guerra Feitosa respecto de Brasil](#), [Precautionary Measure No. 1450-18, Julio Renato Lancellotti and Daniel Guerra Feitosa Brazil], March 08, 2019

¹⁶⁵ CIDH, Comunicado de Prensa No. 66/19, [Brasil debe asegurar justicia para la defensora de derechos Marielle Franco, asesinada hace un año, dicen expertos de la ONU y de la CIDH](#), 14 de marzo de 2019.

¹⁶⁶ MPF, ['Força-Tarefa Araguaia: MPF denuncia novamente Sebastião Curió por crimes na ditadura militar'](#), [Araguaia Task Force: MPF again denounces Sebastião Curió for crimes during the military dictatorship], March 19, 2019; MPF, ['Força-Tarefa Araguaia: MPF denuncia militar por crimes praticados na repressão à Guerrilha do Araguaia'](#), [Araguaia Task Force: MPF denounces member of military for crimes committed during the repression of the Guerrilha do Araguaia], May 29, 2019; MPF, ['MPF denuncia ex-delegado do DOPS por incineração de 12 cadáveres durante a ditadura'](#), [MPF denounces former delegate of the DOPS for incinerating 12 corpses during the dictatorship], August 1, 2019; MPF, ['MPF denuncia chefe da antiga Guarda Rural Indígena por genocídio contra o Povo Krenak'](#), [MPF denounces head of former Indigenous Rural Guard for genocide against the Krenak People], October 18, 2019; MPF, ['MPF denuncia ex-agentes da ditadura por morte de advogado em 1975'](#), [MPF denounces agents of the dictatorship for the death of an attorney in 1975], November 14, 2019; MPF, ['FT Araguaia: MPF denuncia militares por mais três homicídios e ocultações de cadáveres na repressão à Guerrilha do Araguaia'](#), [Task Force Araguaia: MPF denounces three military members for another three homicides and concealing the corpses during the repression of the Guerrilha do Araguaia], December 19, 2019.

¹⁶⁷ International Bar Association's Human Rights Institute, 'Report to the Inter-American Commission on Human Rights: Transitional Justice in 2019: Prosecuting cases linked to the Military Dictatorship in Brazil,' November 2019, pgs. 8-9 (in IACHR archive); MPF, ['Ex-delegado do DOPS vira réu em ação penal movida pelo MPF'](#), [Former Delegate of the DOPS is indicted in criminal case brought by the MPF], October 24, 2019.

¹⁶⁸ International Bar Association's Human Rights Institute, 'Report to the Inter-American Commission on Human Rights: Transitional Justice in 2019: Prosecuting cases linked to the Military Dictatorship in Brazil,' November 2019, pgs. 8-9 (in IACHR archive); O Globo, ['STJ decide que caso Riocentro não pode ser julgado porque crime está prescrito'](#), ['STJ decides that the Riocentro case cannot be tried because it is time-barred'], September 25, 2019.

¹⁶⁹ Grupo de Pesquisa Justiça de Transição do PPGD/UnB, 'Síntese das ocorrências relativas à Comissão de Anistia (CA) a partir de janeiro de 2019' [Summary of events relating to the Amnesty Commission CA as of January 2019], August 28, 2019 (in IACHR archive); Rosalina Santa Cruz et al, 'Declarações do Presidente da República do Brasil referentes ao desaparecimento forçado de Fernando Santa Cruz e desmonte da Comissão Especial sobre Mortos e Desaparecidos Políticos (CEMDP)' [Statements of the President of the Republic of Brazil relating to the forced disappearance of Fernando Santa Cruz, and the dismantling of the Special Commission on Political Deaths and Disappearances (CEMDP)], August 1, 2019; MPF, ['MPF aciona Justiça e questiona nomeação de membros para a Comissão de Anistia'](#), [MPF

135. The IACHR is also concerned about the changes in the procedure, the quorum, motions and the procedure in decision-making on requests for reparation to the Amnesty Commission, that hamper victims' access to reparation and have led to a denial of 85% of the reparation requests examined this year.¹⁷⁰ Finally, the Commission expresses its concern regarding speeches and measures that may trigger stigmatization of the victims of past crimes. The Commission underscores that the State's memory and justice duties must permeate all three branches of State: the legislature, the executive branch, and the judiciary. Accordingly, authorities – whether elective or not– must refrain from pronouncing speeches that may lead to the stigmatization of victims, are revisionist, or in any way show disrespect for human dignity.

136. As for **economic, social, cultural and environmental rights**, regarding the right to health of LGBTI persons living with HIV-AIDS, the Commission is concerned about the State's decision to change the nomenclature of the Department of Chronic Diseases and Sexually Transmitted Infections of the Ministry of Health, leaving out any reference to "HIV-AIDS." The IACHR is aware of the concerns put forward by civil society suggesting that said action could mean the termination of the policy to combat HIV and the discontinuation of the care provided to persons living with the virus.¹⁷¹

137. The Commission is concerned as well about the human, environmental and labor tragedy that took place in Brumadinho (Minas Gerais, Brazil).¹⁷² In this context, we witnessed the biggest violation of the rights of the low-income and Afro-descendant population,¹⁷³ which could constitute a case of environmental racism. In relation to this and other cases of violations caused by extractive activities, the IACHR urges the State to take the necessary actions to ensure that all persons, groups and communities that are potentially affected by an extractive or development project or activity have access to the necessary bodies to participate effectively in the decision-making process, affording due consideration to the disadvantages and obstacles faced by the Afro-descendant population.¹⁷⁴

138. Regarding the right to **freedom of expression**, the Special Rapporteurship has documented in Brazil the context of hostility toward the practice of journalism and a freely operating media. The constant smears issued by President Jair Bolsonaro against journalists and the media undermine the role of the press. From the beginning of his term, the chief executive has encouraged polarization of the media and both in public appearances and on social networks has promoted a stigmatizing discourse toward some of the media and broadcasters, who have reported information about his job in office and who he accuses of acting as the opposition or being politically impartial. As has been asserted by media, journalist associations and civil society groups, the statements and attacks against the press by President Jair Bolsonaro are particularly serious,

takes action against Justice and questions nomination of members of Amnesty Commission'], May 6, 2019; MFP. '[MPF pede à Justiça anulação do decreto que alterou composição da Comissão sobre Mortos e Desaparecidos Políticos](#)' ['MPF asks Justice to vacate the decree that changed the composition of the Commission on Political Deaths and Disappearances'], October 1, 2019.

¹⁷⁰ Estadão, '[Sob Damares, Comissão da Anistia nega 85% dos pedidos](#)' ['Under Damares, Amnesty Commission denies 85% of motions'], Grupo de Pesquisa Justiça de Transição do PPGD/UnB, 'Síntese das ocorrências relativas à Comissão de Anistia (CA) a partir de janeiro de 2019', ['Summary of events relating to the Amnesty Commission CA as of January 2019'], August 28, 2019 (in IACHR archive); December 16, 2019; G1, '[Damares amplia número de integrantes e determina auditoria em atos da Comissão de Anistia](#)' ['Damares expands number of members and determines audit in acts of Amnesty Commission'], March 27, 2019; Ministry of Women, Family and Human Rights, '[Ministra determina a revisão de 2,5 mil processos de anistia](#)' ['Minister determines on review of 2.5 thousand amnesty cases'], December 18, 2019.

¹⁷¹ El País, '[A saúde como forma de política de morte: por onde anda o Departamento de Aids?](#)' ['Health as a form of death policy: where is the AIDS Department?'], May 25, 2019.

¹⁷² IACHR, Press Release No. 019/19, '[Relatoría Especial DESCA de la CIDH expresa profunda preocupación por tragedia humana, ambiental y laboral en Brumadinho \(Minas Gerais, Brasil\) y llama a la reparación integral a las víctimas](#)', [Special Rapporteurship ESCER of the IACHR expresses deep concerns about human, environmental and labor tragedy in Brumadinho (Minas Gerais, Brazil), and calls for the integral reparation for victims], January 30, 2019.

¹⁷³ Desinformémonos, '[Por qué el crimen de Brumadinho también es un caso de racismo ambiental en Brasil?](#)' ['Why the crime of Brumadinho is also a case of environmental racism in Brazil?'], April 30, 2019

¹⁷⁴ IACHR, '[Pueblos Indígenas Comunidades afrodescendientes Industrias Extractivas](#)', [Indigenous Peoples, Communities of African Descent, Extractive Industries], OEA/Ser.L/V/II. Doc. 47/15, December 31, 2015. Paras. 7-10

inasmuch as they may serve to heighten the risk of threats and violence against these professionals in the country and undermine the confidence the people have in journalism as an institution of democracy.

139. The Special Rapporteurship also notes that, in this context, a number of threats have been made against journalists as a consequence of their professional duties; and in some of these incidents, the threats have been leveled by people who identify themselves as supporters of the government. Additionally, two murders and acts of violence against journalists have occurred for reasons allegedly linked to the practice of their profession. Moreover, the police continue to display an excessive use of force in Brazil in the context of social demonstrations and protests, as well as acts of censorship, especially productions about diversity.

CANADA

- **General considerations**

140. With respect to **progress** in 2019, the IACHR welcomes the commitment of the Government of Canada to implement the United Nations Declaration on the Rights of Indigenous Peoples.¹⁷⁵ Moreover, the Commission congratulates the Canadian State for publishing the final report on the National Inquiry into Missing and Murdered Indigenous Women and Girls.¹⁷⁶

141. With respect to the **challenges**, the IACHR recognizes the need to deepen the struggle against homophobia, transphobia, and all other forms of discrimination and violence, particularly such violence that takes the form of attacks on and assassinations of human rights defenders. In addition, the IACHR recognizes the challenge with respect to human rights violations committed by economic and business actors. Moreover, the IACHR underscores the importance of following up on the recommendations of Canada's National Inquiry into Missing and Murdered Indigenous Women and Girls.

142. The State did not respond to the request for information sent by the IACHR for preparing this chapter.

- **Specific topics**

143. As regards the **institutional framework for human rights**, Canada has the Canadian Human Rights Commission, in charge of looking into complaints of human rights violations; it is part of the Commonwealth Forum of National Human Rights Institutions.¹⁷⁷ The IACHR further notes the existence of the forum of ombudsmen's offices of Canada, which brings together the offices of the ombudsman of each of the provinces.

144. The IACHR views in a positive light the adoption of the Accessible Canada Act¹⁷⁸, which establishes a framework for the proactive identification, elimination, and prevention of the obstacles to accessibility for persons with disabilities. The Council of Federal Accessibility Agencies was established in that framework.

145. Regarding the **rights of older persons**, the IACHR observes that Canada has the highest average life expectancy in the region, 82.2 years.¹⁷⁹ The most recent population estimates point to a rapid continuous aging of the population, a trend that reflects low fertility and greater life expectancy. The difference

¹⁷⁵ Office of the Prime Minister of Canada, [Statement by the Prime Minister on Human Rights Day](#), December 10, 2019.

¹⁷⁶ National Inquiry into Missing and Murdered Indigenous Women and Girls, [Reclaiming power and place: the final report](#), 3 de junio de 2019.

¹⁷⁷ [Commonwealth Forum of National Human Rights Institutions](#).

¹⁷⁸ [Act to ensure a barrier-free Canada](#). Bill 81, June 2019.

¹⁷⁹ According to WHO. 24 Horas, [Cámara de Diputados pide al Gobierno crear el Ministerio del Adulto Mayor](#), January 18, 2019.

between the number of children and the number of older persons continues to expand. Accordingly, as of July 1, 2018, there were 106 adults 65 years and older for every 100 children ages 0 to 14 years.¹⁸⁰ The population of older persons has increased by 531,497 from July 1, 2018 to July 1, 2019. A record has been reached, with more than 10,000 persons over 100 years of age.¹⁸¹ In this context, one of the challenges in the Atlantic provinces of Canada (New Brunswick, Nova Scotia, Prince Edward Island, and Newfoundland and Labrador) is the need to relocate persons with chronic and complex illnesses for their long-term care, and unmet increased demand for caregiving personnel.¹⁸²

146. On the **rights of LGBTI persons**, the Commission takes note of the judicial decisions in Canada such as the one handed down by the Human Rights Tribunal of British Columbia ordering that a trans activists be paid compensation for the publication of a flyer that contained language based on prejudice and that sought to limit the person's right to political participation.¹⁸³

147. As regards the rights of **migrants and refugees**, the Commission has received information about the modifications proposed to the procedure for determining refugee status that could limit the right to seek asylum and place asylum-seekers at risk of being returned to the countries where they suffered persecution. According to the general budget proposal presented by the Government, amendments were introduced that would amend the Law on Immigration and Protection of Refugees.¹⁸⁴

148. The IACHR considers that those amendments would imply, first, disqualifying certain asylum-seekers from refugee protection on keeping those persons from filing asylum applications in Canada if they have already applied for asylum in another country. Second, it would eliminate the right of asylum-seekers to be heard in an oral hearing and, if a request for asylum were denied, the applicant could agree to have a risk assessment prior to expulsion, to be conducted by immigration authorities, not by anyone independent of the procedure.

149. In addition, the IACHR has been informed of a request put by Canada to the Government of the United States to renegotiate the current Third Safe Country Agreement so that it could be applied not only to applicants who reach the ports of entry – as occurs at present – but also to those applicants who show up anywhere along the border between Canada and the United States. In this respect, the Commission made a request for information to the State of Canada pursuant to Article 18(d) of its Statute. Nonetheless, to date it has received no response.¹⁸⁵

150. As regards the **rights of indigenous peoples**, the IACHR received consistent information about sterilizations of indigenous women without their consent in several Canadian provinces, including Alberta, Manitoba, Ontario, and Saskatchewan. The IACHR has taken note that the survivors describe similar experiences, including procedures performed in public hospitals, often while they were in labor or shortly after childbirth. In addition, some women have reported that they were subjected to tubal ligation without their knowledge while undergoing a cesarean birth; that they were pressured to accept sterilization with threats related to custody and access to their older children or the detention of their children who were just born; or that the physicians and health professionals did not properly explain the permanent nature of the procedure.¹⁸⁶

¹⁸⁰ By way of comparison, in 1986 there were twice as many children ages 0 to 14 years as persons over 65 years of age, Canada, Statistics Canada, [Canada's population estimates: Age and sex, July 1, 2018](#), January 25, 2019.

¹⁸¹ National Post, [Canada today: There are more of us and we're getting older, statistics show](#), September 30, 2019; Wealth Professional, [Canada's aging population has just reached a new milestone](#), October 1, 2019.

¹⁸² The Guardian, [The challenge of caring for Atlantic Canada's aging population](#), June 5, 2019.

¹⁸³ Vancouver Sun, [Anti-gay activist ordered to pay \\$55,000 to B.C. trans candidate in fight over hateful flyer](#), March 2019.

¹⁸⁴ Parliament of Canada, House of Commons, [BILL C-97, An Act to implement certain provisions of the budget tabled in Parliament on March 19, 2019 and other measures](#), March 19, 2019.

¹⁸⁵ IACHR, Letter requesting information, May 13, 2019, Archive of the IACHR.

¹⁸⁶ IACHR, Press Release No. 10/19, [IACHR expresses its deep concern over the claims of forced sterilizations against indigenous women in Canada](#), January 18, 2019.

151. In addition to the foregoing, the IACHR was informed of the publication of the final report of the National Inquiry into Missing and Murdered Indigenous Women and Girls. According to the report "Reclaiming Power and Place," Canada has high rates of violence against indigenous women and girls, lesbians, gays, bisexual, transgender, queer, intersex, and asexual persons (2SLGBTQIA). Among the report's main findings it concluded that the State is an accomplice in a planned "genocide" based on race, identity, and gender, relying on colonialist policies and the inaction of the State.¹⁸⁷

152. The report further establishes that while "genocide" affects all members of the indigenous groups it is specifically aimed at women, girls, and members of the LGBTQI community. In that context the IACHR urged the Canadian State to protect and guarantee the human rights of indigenous women and girls, and to act with due diligence to prevent, punish, and make reparation for any act of gender violence committed against indigenous women and girls, and to take specific measures, with the participation of indigenous women, to implement the respective recommendations.¹⁸⁸

153. In June 2019, the IACHR requested information from the State under the authorities established in Article 18 of the Commission's Statute. In particular, the Commission asked the State to report on the specific measures adopted to carry out the recommendations set forth in that report, including the measures that were to be adopted to investigate these cases. The disappearances and murders of indigenous women in Canada is an issue that the Commission has followed closely, and with respect to which it has made several recommendations to the State.¹⁸⁹ In addition, a hearing was held on this question, at the Commission's initiative, during the 173rd period of sessions.¹⁹⁰

154. As regards indigenous **children and adolescents**, the IACHR welcomes the judgment of September 6, 2019, handed down by the Canadian Human Rights Tribunal. The judgment ordered the government to provide compensation to the children of First Nations and their families who were separated by the country's child welfare system, as from January 1, 2006.¹⁹¹

155. On the **freedom of expression**, Canada continues being a country in which, in general, the freedom of expression and the right of access to information are respected, and in which journalists can do their work free from violence. The Office of the Special Rapporteur for Freedom of Expression notes the decision by the Supreme Court of Canada that overturned the decision by the Superior Court of Quebec to require Radio-Canada journalist Marie-Maude Denis to reveal her sources in relation to a public interest investigative report of hers. In addition, the Office of the Special Rapporteur received information on the adoption of the Digital Charter, which establishes "Canadians can expect that digital platforms will not foster or disseminate hate, violent extremism or criminal content," as well as the imposition of sanctions on those who fail to abide by the principles established. The Office of the Special Rapporteur has underscored that states should not transfer to private platforms the ability to impose censorship without judicial oversight.

CHILE

- **General considerations**

156. In 2019, the IACHR took note of the **progress** made in Chile, in particular with the ratification of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women;

¹⁸⁷ CBC, [Inquiry into missing and murdered Indigenous women issues final report with sweeping calls for change](#), June 3, 2019.

¹⁸⁸ IACHR, Press Release No. 159/19, [IACHR calls on the State of Canada to address the recommendations issued by the National Inquiry into Missing and Murdered Indigenous Women and Girls in order to protect and guarantee their human rights](#), May 25, 2019.

¹⁸⁹ IACHR, [Missing and Murdered Indigenous Women in British Columbia, Canada](#), OEA/Ser.L/V/II. Doc. 30/14, December 21, 2014.

¹⁹⁰ IACHR. Press Release, [IACHR Completes 173rd Period of Sessions](#), October 4, 2019.

¹⁹¹ APTN News, ['Wilfully and recklessly': Human rights tribunal awards compensation for First Nation children in care](#), September 6, 2019.

and with the formalization of Chile's accession to the Convention relating to the Status of Stateless Persons of 1954 and the Convention on the Reduction of Statelessness of 1961. The Commission likewise underscores Chile's solid democratic and human rights institutional framework, which, since the start of the protests on October 18, 2019, prompted the denunciation and litigation of situations that could constitute human rights violations. In addition, the Commission values the openness of and support provided by the State of Chile to the preparatory mission of the onsite visit conducted in November 2019.

157. As regards the **challenges**, the IACHR paid special attention to the situation of violence that ensued since the startup of more demonstrations in October 2019. In this connection, the Commission observed several challenges related to citizen security, democratic institutional framework, access to justice, as well as the negative impacts on several sectors of the population, such as women, human rights defenders, and journalists. The Commission also observed several challenges for the rights of children and adolescents, memory, truth and justice, indigenous peoples, and freedom of expression.

158. The State responded to the request for information sent in the context of preparing this chapter.

- **Specific topics**

159. As regards the **institutional framework for human rights**, the Commission values the accession of the National Human Rights Institute (INDH: Instituto Nacional de Derechos Humanos) of Chile, an autonomous and independent agency for the promotion and defense of human rights, to the Declaration of Commitment on Technical Cooperation and the Mechanism of Points of Contact of the IACHR.¹⁹² In addition, the IACHR welcomes the participation of the INDH in the Third Meeting for Exchange of Good Practices in Human Rights held in Medellín, Colombia. Special mention should also be made of the cooperation agreements in place between the IACHR and institutions of the State of Chile such as the Office of the Attorney General¹⁹³, the Office of Criminal Public Defense¹⁹⁴, and the National Human Rights Institute.¹⁹⁵

160. The Commission has taken note of the efforts made to implement the 2018-2021 National Human Rights Plan.

161. At the same time, the IACHR welcomes the entry into force of the Law on Gender Identity.¹⁹⁶ It is also continuing to monitor the legislative proceedings relating to approval of same-sex marriage. Here, the IACHR notes the broad approval of that bill in the Senate, which will trigger a discussion of its individual articles in the Congress.¹⁹⁷

162. In addition, the Commission applauds the promulgation of Law 21,154¹⁹⁸, which designates the National Human Rights Institute as the National Preventive Mechanism to fight torture, which represents progress by the State of Chile in carrying out commitments aimed at establishing effective mechanisms of

¹⁹² IACHR, Press Release No. 235/19. [CIDH saluda a Instituciones Nacionales de Derechos Humanos que firmaron la Declaración de Compromiso en materia de Cooperación Técnica](#), September 23, 2019.

¹⁹³ IACHR, [Cooperation agreement between the IACHR and the Office of the Attorney General of Chile](#).

¹⁹⁴ IACHR, [Cooperation agreement between the IACHR and the Office of Criminal Public Defense of the Republic of Chile](#).

¹⁹⁵ IACHR, [Cooperation Agreement between the IACHR and the National Institute of Human Rights](#).

¹⁹⁶ Agencia Presentes, [Ley de identidad de género chilena entrará en vigencia en 120 días](#), August 29, 2019.

¹⁹⁷ Senado de Chile, [Aprueban en general proyecto sobre matrimonio igualitario](#), 15 de enero de 2020.

¹⁹⁸ Diario Oficial de la República de Chile, Ministry of Interior and Public Security, Law 21,154, Article 1. Purpose of the law. Designates the National Institute of Human Rights (hereinafter the "Institute") as the National Mechanism for the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, in keeping with Article 3 of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, promulgated by Supreme Decree No. 340, of 2008, of the Ministry of Foreign Affairs (hereinafter "the Optional Protocol").

prevention of and protection from torture. Finally, the Commission recognizes the efforts to promote respect for human rights in businesses.¹⁹⁹

163. In the area of **citizen security**, from the beginning of the social protests on October 18, 2019 the Commission received continuous and urgent information on the excessive use of force by the security forces of the State. In this respect, the Commission observed that both the National Human Rights Institute (INDH) and the Office for the Defense of Children (Defensoría de la Niñez) reported on the disproportionate use of force against persons engaged in peaceful protest. Among these acts, those bodies allege having on record, among others, shots of pellets in the direction of demonstrators' bodies, necks, and faces, lack of graduality in the use of force without prior notice, the use of teargas in the presence of older adults, children and adolescents, and pregnant women, in addition to persons seriously injured by pepper spray, pellets, teargas cannisters, and carbine teargas grenade launchers.²⁰⁰

164. The Commission received information that indicates that as a result of this excessive use of force 26 persons were killed, at least five of whom died due to the direct action of state agents and two under the custody of the State at a police station of the Carabineros. In addition, according to information from the Ministry of Health, 12,652 persons received treatment for injuries related to the demonstrations. The INDH verified directly, in hospitals, 2,808 persons injured in the context of the demonstrations. Similarly, according to the Medical Association (Colegio Médico) at least 283 persons have suffered ocular trauma, in some cases with total loss of eyesight in both eyes.²⁰¹ In this respect, the State indicated that a team of professionals has been formed to coordinate and accompany those women who have reported sexual violence. It also noted a cooperation agreement with UN Women; the Comprehensive Program for Ocular Recovery and the Plan of Help and Medical and Social Assistance for persons with serious injuries; and a program of support and psychological containment for youth who have reported that they were victims of violations of their rights during the demonstrations.²⁰²

165. The Commission also received information on the high number of persons detained in the context of the protests that began on October 18, 2019. In this respect, the IACHR expressed its alarm over the high number of detentions, having learned of at least 20,645 that resulted in detention review hearings; at least 950 persons are being held in pretrial detention. According to the information received, this figure could be even larger due to the uncertainty regarding the real number of detainees and persons who were brought into police stations in relation to persons released exclusively by decision of the police, without informing the Office of the Attorney General. In addition, the IACHR was informed of the increase in the number of illegal arrests declared in hearings to supervise arrests; in 26.3% of the cases the Office of the Public Defender alleged that the arrest was unlawful. In all, 6.2% of the arrests were then found to be unlawful. The Commission expressed its alarm over the large number of reports of sexual abuse in the context of the detentions²⁰³ at the same time as it learned that women were more exposed to sexual violence during this period. In addition, the IACHR learned of reports of sexual violence committed against LGBTI persons, or persons who were perceived as such, in the context of the actions to repress the demonstrations²⁰⁴, including acts of sexual violence against lesbian women in the context of the state of emergency decreed in 2019.²⁰⁵

¹⁹⁹ Ministry of Justice and Human Rights, [Ministerio de Justicia y Derechos Humanos firma convenio de colaboración con Confederación de Producción y Comercio](#), March 26, 2019.

²⁰⁰ IACHR, Press Release No. 317/19, [IACHR Condemns the Excessive Use of Force during Social Protests in Chile, Expresses Its Grave Concern at the High Number of Reported Human Rights Violations, and Rejects All Forms of Violence](#), December 6, 2019.

²⁰¹ IACHR, Press Release No. 317/19, [IACHR Condemns the Excessive Use of Force during Social Protests in Chile, Expresses Its Grave Concern at the High Number of Reported Human Rights Violations, and Rejects All Forms of Violence](#), December 6, 2019.

²⁰² Input from the State of Chile for Chapter IV of the 2018 Annual Report of the IACHR, December 15, 2019, p. 5.

²⁰³ IACHR, Press Release No. 317/19, [IACHR Condemns the Excessive Use of Force during Social Protests in Chile, Expresses Its Grave Concern at the High Number of Reported Human Rights Violations, and Rejects All Forms of Violence](#), December 6, 2019.

²⁰⁴ El Imparcial, [Joven abusado sexualmente por policías: El rostro de la represión a las protestas en Chile](#), October 29, 2020.

²⁰⁵ Agencia Presentes, [Nuevas denuncias de violencia sexual a lesbianas por agentes del Estado](#), November 6, 2019.

166. In addition, the IACHR has warned of the impact of the excessive use of force against human rights defenders in the context of demonstrations. On December 6, 2019, the IACHR noted that it had recorded injuries suffered by INDH observers, human rights defenders and observers, as well as personnel and volunteers who were engaged in relief and medical assistance work who were wearing clothing that clearly identified them as such.²⁰⁶

167. Moreover, the IACHR monitored the situation of children and adolescents in the context of the social protest and the state of emergency in the country, where at least 442 victims were under 18 years of age.²⁰⁷ According to the cases recorded by the Office for the Defense of Children, 46% of the alleged violations correspond to injuries caused by shotgun pellets or other physical injuries. Of the cases reported by the Office of the Attorney General to the Office for the Defense of Children, 70% of the victims alleged that they were subject to unlawful harassment by public servants.²⁰⁸ The Commission addressed the particular context of vulnerability of children and adolescents in the context of the protests in Chile in a press release on the matter.²⁰⁹

168. As regards investigations into the alleged violations of human rights committed in the context of the protests, the Commission observed that from October 18 to November 25, 2019, 2,670 investigations were being carried out into alleged violations of human rights, 422 of which refer to cases of children and adolescents and five persons from the LGBTI community; 44 cases refer to torture. Of the investigations in this period, 90 are for forcibly stripping persons, 26 for rape or sexual abuse, and eight for threats of sexual assault. In terms of the institution named in the complaints under investigation, the Office of the Attorney General reported that 2,052 victims denounced Carabineros de Chile, 183 the Army, and 50 the Investigative Police. In this respect, the IACHR observes that according to this information at least 203 agents of the State have been individually named in the investigations. In addition, the IACHR observes that the Office of the Attorney General is moving forward in the investigation of at least five persons who died as the result of action by state agents, most of these over actions by the Armed Forces in the context of the constitutional state of emergency.²¹⁰ The State reported having opened 856 administrative investigations into the Carabineros; the antecedents were forwarded to the Office of the Attorney General simultaneously.²¹¹

169. In this respect, the State reported that it was adopting several measures to ensure there would be no impunity for those persons who committed human rights violations. Accordingly, it reported on the call directed to the Commission for Coordination of the Criminal Justice System to take measures to reinforce access to defense for persons detained in the context of the mobilizations. Similarly, it reported having activated the Inter-institutional Committee on Human Rights promising the creation of a Technical Advisory Committee to come up with proposals for intersectoral action and to coordinate the implementation of measures along three main lines: international, namely international standards applied to protocols for specially protected groups such as women and children and adolescents; permanent advisory services for the various armed forces, the Carabineros, and investigative police; and a study of gaps in relation to the situation of persons deprived of liberty, with the emphasis on specially protected groups, including proposals for improving policies and regulations to be reviewed by the Inter-ministerial Committee.²¹²

²⁰⁶ IACHR, Press Release No. 317/19, [IACHR Condemns the Excessive Use of Force during Social Protests in Chile, Expresses Its Grave Concern at the High Number of Reported Human Rights Violations, and Rejects All Forms of Violence](#), December 6, 2019.

²⁰⁷ Office of the Attorney General of Chile, [La Fiscalía de Chile elevó a 2.670 las investigaciones por violaciones a los DDHH](#), November 26, 2019.

²⁰⁸ Office of the Defense of Children, Informe sobre la situación de NNA en el contexto de Estado de Emergencia y crisis social en Chile, November 2019, pp. 18 and 19, Archive of the IACHR.

²⁰⁹ IACHR, Press Release No. 317/19, [IACHR Condemns the Excessive Use of Force during Social Protests in Chile, Expresses Its Grave Concern at the High Number of Reported Human Rights Violations, and Rejects All Forms of Violence](#), December 6, 2019.

²¹⁰ IACHR, Press Release No. 317/19, [IACHR Condemns the Excessive Use of Force during Social Protests in Chile, Expresses Its Grave Concern at the High Number of Reported Human Rights Violations, and Rejects All Forms of Violence](#), December 6, 2019.

²¹¹ Input from the State of Chile for Chapter IV of the 2018 Annual Report of the IACHR, December 15, 2019, p. 5.

²¹² Input from the State of Chile for Chapter IV of the 2018 Annual Report of the IACHR, December 15, 2019, p. 4.

170. As regards **access to justice**, the Commission learned of the granting of a writ of *amparo* in favor of an indigenous community of Caracautín. In that judgment the Court of Appeals found disproportionate use of force by the police against a group of Mapuche minors.²¹³ In addition, the Commission learned of the guilty verdict in the case of Francisco Arzola Ruiz, known as “Paco nazi,” who was accused of torturing street vendors in the neighborhood known as Barrio Meiggs.²¹⁴

171. As regards the **rights of children and adolescents**, the Commission has monitored the acts of repression of student protests and the use of force by members of security forces in the schools. According to data from the Office for the Defense of Children, in the Instituto Nacional alone there were 29 incidents in which Carabineros de Chile entered from March to September 2019.²¹⁵ In particular, the Commission monitored the events of August 14 at the Instituto Nacional General José Miguel Carrera, in Santiago, Chile, where students were said to have been repressed by police forces who entered the establishment using teargas and pellet guns.

172. Mindful of the foregoing, the IACHR requested information from the State of Chile pursuant to Article 41 of the American Convention.²¹⁶ In its response the Chilean State provided information, mainly on the actions taken by the security forces on that occasion; the protocols and training for security agents on the human rights of children; the measures taken to investigate the facts alleged regarding excessive use of force by agents during the student protests and the preliminary results, to ensure the non-repetition of such incidents, and to expedite security at that school; and it attached a copy of the agreement entered into by the Municipality of Santiago and the Instituto Nacional General José Miguel Carrera in the context of which they agreed to implement various actions with a view to eradicating violence.²¹⁷

173. The Commission has learned of the measures adopted by the State to replace the SENAME by two services that would imply a profound change in the National Protection System.²¹⁸ In addition, the Commission takes note of the closing of the Playa Ancha Cread²¹⁹ and of other Cread units, and their replacement by new foster residences.²²⁰ According to public information, the proposed law on “The right to time” was adopted; it establishes the imprescriptibility of sex offenses committed against children and adolescents.²²¹

174. As regards **women’s rights**, the IACHR reiterates the progress reported by the State with respect to the approval, by the National Congress, of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, which was forwarded to the President of the Republic on

²¹³ Radio Agricultura, [Corte de Temuco acogió recurso de amparo en favor de niños mapuche](#), April 19, 2019.

²¹⁴ INDH, [INDH valora histórica condena por torturas y falsificación de instrumento público a carabinero conocido como “El Nazi.”](#) September 14, 2019; INDH, [Continúa proceso judicial contra carabinero acusado de torturas y autodenominado como “El nazi.”](#) June 25, 2019; INDH, [Se inicia juicio oral contra ex carabinero acusado de torturas y autodenominado como “el Nazi.”](#) August 23, 2019.

²¹⁵ Office of the Defense of Children, Informe sobre la situación de NNA en el contexto de Estado de Emergencia y crisis social en Chile, November 2019, p. 5, Archive of the IACHR.

²¹⁶ IACHR, Letter requesting information of August 18, 2019, Archive of the IACHR.

²¹⁷ Government of Chile, Ministry of Foreign Affairs, REF: CIDH/SE/Art.41/08-2019/48. Intervención policial en el marco de las protestas en el Instituto Nacional en Santiago de Chile, September 21, 2019. Archive of the IACHR.

²¹⁸ Publimetro, [Sename: Así son las nuevas residencias que acogerán a los niños](#), October 7, 2019.

²¹⁹ La Tercera, [Sename cierra Cread Playa Ancha y abrirá 16 residencias este año](#), March 14, 2019.

²²⁰ Publimetro, [Sename: Así son las nuevas residencias que acogerán a los niños](#), October 7, 2019. Government of Chile, Ministry of Justice and Human Rights, SENAME, [Autoridades visitan la primera residencia familiar que reemplazará al Cread Galvarino](#), October 7, 2019.

²²¹ El Desconcierto, [Senado aprueba por unanimidad la imprescriptibilidad de delitos sexuales a niños y adolescentes](#), April 4, 2019.

December 4, for its promulgation.²²² Despite the positive steps forward, the Commission observed the situation of particular risk that women face in Chile, particularly in the context of the protests.

175. In relation to the **rights of indigenous peoples**, the IACHR learned that on April 3, Exempt Resolution No. 241 of the Ministry of Social Development and Family was issued; it began an administrative procedure and convened a process of indigenous consultation. The purpose of this process was to amend Law No. 19,253, which “Establishes Provisions on Protection, Promotion, and Development of the Indigenous Peoples, and creates the National Corporation for Indigenous Development,” and is related to a series of proposals made by the Executive in 2018 in the context of what is known as the National Agreement for Development and Peace in the Araucanía region.²²³ In keeping with what is established in that Agreement, the set of legislative measures was related directly to the system for the protection of indigenous lands and had the aim of “incentivizing indigenous territorial development.”²²⁴ Nonetheless, that incentive was broadly criticized and rejected by civil society organizations since it sought to insert the indigenous lands in the logic of the marketplace, curtailing the system for their protection.²²⁵ In that context representative indigenous organizations nationwide demanded that the government withdraw the initiative for a consultation.²²⁶

176. In this respect, the IACHR observes that the procedure was suspended on two occasions through Exempt Resolutions No. 553 of 2019 and No. 631 of 2019, both of the Ministry of Social Development and the Family, published in the Official Gazette on July 31 and October 1 respectively. Finally, the IACHR has learned that the State has decided to put an end to the indigenous consultation procedure.²²⁷

177. As regards **human rights defenders and social leaders**, the IACHR expresses its concern over the information published on October 29 that describes the tracking and surveillance that Carabineros de Chile has conducted of several human rights organizations in the context of the social protests, such as the Red de Apoyo de Resistencia de Pilmaiken, the Agrupación Eco Social of Quintero, and MODATIMA and its national spokesperson Rodrigo Mundaca, who recently received the Nuremberg International Human Rights Award (Germany) on September 22, 2019.²²⁸ In addition, the IACHR notes with concern the death threat received via email by the director of Amnesty International Chile, Ana Piquer. This threat was received the same day as Amnesty International published its preliminary conclusions on the situation in Chile.²²⁹

178. Finally, the IACHR expresses its concern over the criminalization of human rights defenders. In this respect, the IACHR notes, among other situations, that on December 13 the Oral Court for Criminal Matters of Temuco acquitted Lonko Alberto Curamil for the crimes of illegal possession, robbery of arms, and assault of a compensation fund. The proceeding against this human rights defender was marked by constant delays in the oral proceedings, including a continuance due to the political and social crisis in Chile. After being held for more than a year in pretrial detention, Alberto Curamil was finally acquitted of all charges by unanimous decision of the three judges of the court. The IACHR also learned of the complaint for the crime of

²²² Input from the State of Chile for Chapter IV of the 2018 Annual Report of the IACHR, December 15, 2019, p. 3.

²²³ Gob.cl, [Presidente Piñera presenta el Acuerdo Nacional por el Desarrollo y la Paz en La Araucanía](#), September 24, 2018.

²²⁴ Ministry of Social Development, Intendancy of La Araucanía and Sectoral Ministries involved in the Plan Impulso Araucanía, [Acuerdo Nacional por el Desarrollo y la Paz en La Araucanía](#), pp. 13-15, September 24, 2018.

²²⁵ JGM Radio, [De norte a sur: aumentan los pueblos originarios que rechazan la consulta indígena](#), May 29, 2019; B10 La Diversidad, [Arica rechaza la Consulta Indígena que busca modificar Ley 19.253](#), May 30, 2019; La Tercera, [La consulta indígena que los pueblos no quieren, June 12, 2019](#); Diario UChile, [Consulta Indígena: la idea de Gobierno que nació fracasada](#), July 15, 2019; Observatorio ciudadano, [Propuesta de modificación de la Ley Indígena: una amenaza para la protección de las tierras del pueblo mapuche y una estrategia para su incorporación en el mercado](#), May 23, 2019.

²²⁶ Bio, [Consulta indígena: la historia de un fracaso](#), June 10, 2019.

²²⁷ Emol, [Gobierno envía a Contraloría decreto para cancelar consulta indígena en medio de crisis social](#), November 13, 2019; La Tercera, [Gobierno suspende consulta indígena y evalúa cancelarla definitivamente](#), July 25, 2019.

²²⁸ The Clinic, [Revelan nombres de dirigentes y organizaciones sociales que son vigilados por Carabineros](#), November 1, 2019; Modatima, [Declaración Pública – Ante vigilancia por parte del Departamento de Inteligencia de Carabineros a Movimientos Sociales](#), November 1, 2019.

²²⁹ Cooperativa, [Directora de Amnistía Chile denunció amenaza de muerte](#), November 26, 2019.

inciting rebellion (*sublevación*) that the Metropolitan Intendancy filed against social leader Dauno Tótoro, in the context of the Law on Internal Security of the State, for statements made during an assembly that was held at the Universidad de Chile in which he stated his desire for the “government to fall” (“*que caiga el gobierno*”).²³⁰

179. With respect to **memory, truth, and justice**, the IACHR is concerned by the attacks on various sites of memory in the cities of Santiago, Panguipulli, Antofagasta, Paine, San Antonio, Osorno, Serena, and Concepción.²³¹ In addition, victims and civil society organizations have stated their alarm to the IACHR over the sale of the former center of kidnapping, detention, torture, and sexual violence known as Venda Sexy and its implications for the preservation of this site of memory.²³² The Commission has also learned of the decision by the executive branch to definitively withdraw the legal initiative that provides for supplemental reparations for victims of the Chilean dictatorship.²³³ As regards justice for the gross human rights violations committed in the context of the dictatorship, according to information that is a matter of public knowledge, 1,459 criminal cases referring to that period are still open.²³⁴ In addition, the Commission takes note that from 1995 to April 30, 2019, 426 cases have seen final judgments handed down in the superior courts of Chile, 61 of which are for civil compensation while 365 are criminal cases.²³⁵

180. As regards the rights of **LGBTI persons**, the IACHR learned that the National Health Fund announced that same-sex couples would be excluded from access to in-vitro fertilization.²³⁶ The IACHR was also informed of various acts of violence, including the murder of a trans adolescent in Coyhaique²³⁷ and the stabbing of a gay man by his father.²³⁸

181. As regards the **rights of migrants**, the Commission observes with concern the judgment of the Supreme Court that rejected a writ of *amparo* that sought to set aside the possible expulsion of undocumented migrants who had children with Chilean nationality.²³⁹ Nonetheless, the IACHR values the judgments of the Courts of Appeals of Santiago²⁴⁰, Arica²⁴¹, Valparaíso²⁴², and Rancagua²⁴³, as well as the

²³⁰ CNN Chile, [Declaran admisible querrela contra Dauno Tótoro por “incitar al derrocamiento” de Piñera](#), December 13, 2019.

²³¹ IACHR, [“Maintenance and safeguarding of sites, memorials, archives, museums, and spaces of memory in the Region.”](#) 171st period of sessions, February 13, 2019; INDH, [‘INDH condena nuevo ataque en contra de sitio de memoria Villa Grimaldi.’](#) January 10, 2019; Sitios de memoria, [‘Intento de robo en Casa Memoria José Domingo Cañas.’](#) March 8, 2019; Londres 38, [‘Memorial de Neltume sufre ataque incendiario y robo.’](#) July 9, 2019; Soy Chile, [‘Denuncian rayados en memorial de detenidos desaparecidos en Antofagasta.’](#) April 5, 2019; Diario U Chile, [‘Organizaciones de DD.HH. rechazan atentado contra el Paseo de la Memoria de Paine.’](#) September 13, 2019; Museo de la Memoria y los Derechos Humanos, [‘Memorial dañado en San Antonio fue restaurado por Fundación por la Memoria.’](#) December 27, 2019; El Desconcierto, [‘Rayaron “faltaron algunos” y “se vienen más”: Dos memoriales de detenidos desaparecidos son atacados consecutivamente.’](#) December 29, 2019; Sabes, [‘Denuncian que desconocidos vandalizó Memorial de Detenidos Desaparecidos en Concepción.’](#) December 31, 2019; Universidad Diego Portales, [‘Informe Anual sobre Derechos Humanos en Chile.’](#) November 2019, p. 125.

²³² Colectivo de Mujeres Sobrevivientes Siempre Resistentes, [‘Amenaza de Destrucción de Sitio de Memoria en Santiago de Chile.’](#) August 15, 2019 (in Archivo IACHR).

²³³ Interferencia, [‘Hernán Larraín decide anular bono de reparación a ex presos políticos.’](#) April 22, 2019.

²³⁴ Universidad Diego Portales, [‘Informe Anual sobre Derechos Humanos en Chile.’](#) November 2019, p. 80.

²³⁵ Universidad Diego Portales, [‘Informe Anual sobre Derechos Humanos en Chile.’](#) November 2019, p. 71.

²³⁶ Publimetro Chile, [‘Movilh acusó que es ilegal la exclusión de parejas lésbicas de fertilización in vitro vía Fonasa y tomará acciones.’](#) March 27, 2019.

²³⁷ Agencia Presentes, [‘Asesinan a un adolescente trans en el sur de Chile.’](#) September 20, 2019.

²³⁸ Agencia Presentes, [‘Un hombre apuñaló a su hijo gay: «es un maricón que avergüenza».’](#) July 2, 2019.

²³⁹ CNN Chile, [‘Corte Suprema aprueba expulsión de migrantes pese a tener hijos de nacionalidad chilena.’](#) June 9, 2019.

²⁴⁰ Agenda de Prensa, [‘Fallo de la Corte de Santiago que acoge recurso de amparo por orden de expulsión de colombiano con familia chilena.’](#) September 4, 2018.

²⁴¹ CNN Chile, [‘Corte de Apelaciones acogió recurso para impedir expulsión de extranjeros.’](#) October 7, 2019.

²⁴² Microjuris, [‘Corte de Valparaíso acoge recurso de amparo y deja sin efecto expulsión de ciudadana venezolana.’](#) October 1, 2019.

²⁴³ Diario constitucional, [‘Corte de Rancagua acoge amparo de ciudadano venezolano y deja sin efecto su expulsión del país.’](#) October 14, 2019.

decision by the Supreme Court that ratified the judgments of the courts of Arica and Santiago²⁴⁴ that ruled favorably on *amparo* actions and set aside expulsions of migrants who had entered Chile irregularly.

182. During a thematic hearing held during its 172nd period of sessions²⁴⁵ the Commission was informed of the human rights situation affecting the migrant population in Chile. In particular, the Commission received information on the lack of due process and the failure to consider the best interest of the children and adolescents caught up in expulsion proceedings; elimination of the visa for work-related reasons; the establishment of the “visa of democratic responsibility,” which is applied for through consulates, and which is compulsory for Venezuelans to be able to enter the country; the requirement of a consular “*visto*” for Haitians to enter Chilean territory as tourists for 60 days, and not 90f, as is the case for citizens of all other nationalities; and the adoption of the “Humanitarian Plan for Orderly Return,” geared especially to the Haitian population, which requires a sworn statement pledging not to enter the country again for nine years. In addition, the IACHR learned of the progress of extraordinary migratory regularization which, according to what was stated by the civil society organizations, is used to obtain personal data from undocumented migrants so as to then proceed to expel them.

183. Finally, the IACHR, through a press release, welcomed the formal accession of Chile to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.²⁴⁶

184. As for the general context of **freedom of expression**, the IACHR condemned the excessive use of force and the violation of human rights in Chile in the context of the social protests that shook the country, which resulted in deaths, thousands of persons injured, as well as assaults on journalists and camerapersons by both the police forces and violent groups.

185. The Office of the Special Rapporteur calls attention to the selective attack on camerapersons and journalists during their coverage of protests, in addition to complaints on the existence of pressures or censorship of journalists in state television stations and private media outlets. In addition, there were attacks and attempted arson directed against the facilities of different media outlets in several cities. During the more than two months of protests the IACHR recorded the excessive use of public force by the Carabineros and the indiscriminate use of ballistic and non-ballistic projectiles, which have resulted in a considerable number of persons with ocular lesions and mutilations. Furthermore, there were reports of complaints concerning illegal detentions and torture in which the victims were persons from the most vulnerable populations, such as children and adolescents, in addition to sexual assaults on women and members of the LGBTI population.

COLOMBIA

- **General considerations**

186. With respect to **progress** during 2019, the IACHR welcomes various measures adopted by the State in relation to human rights. These include the participation of the FARC in the local and regional elections held in October 2019, as well as the continued operations of the mechanisms of the Integral System for Truth, Justice, Reparation, and Non-Repetition (SIVJRNR or “Integral System”), particularly the opening of cases before the Special Jurisdiction for Peace (JEP: Jurisdicción Especial para la Paz) and the progress that has been made in those cases.

187. As regards the **challenges**, the Commission continues to be especially concerned about the risks human rights defenders and social leaders face due to large high number of attacks and assassinations

²⁴⁴ Radio U Chile, [Corte Suprema ratifica que expulsiones a inmigrantes en situación irregular son ilegales](#), October 10, 2019.

²⁴⁵ IACHR, [Hearing on migrants in Chile](#), May 8, 2019.

²⁴⁶ IACHR, Press Release, [IACHR Welcomes Actions to Protect the Right to a Nationality and to Prevent Statelessness in the Region](#), February 25, 2019.

they suffer. The Commission is also concerned about the assassinations committed against indigenous authorities and members of the Guardia Indígena and the increased violence in the department of Cauca.

188. The State responded to the request for information sent out for producing this chapter.

- **Specific topics**

189. As for the **institutional framework for human rights**, the Commission notes the adoption of the Law on the Special Jurisdiction for Peace (JEP: Jurisdicción Especial para la Paz) in June 2019.²⁴⁷ In addition, the Commission views in a positive light the decision of the Constitutional Court to extend the Law on Victims and Land Restitution.²⁴⁸

190. The State reported that in 2019 it made progress consolidating the National Human Rights Action Plan (PNADDH); its design has included the participation of different actors, sectors, and offices, and various population groups²⁴⁹; and it has continued making progress on the adoption of the second version of the “*2019-2022 National Action Plan on Business and Human Rights*,” prioritizing the sectors related to the orange economy, sustainable development, and territorial strengthening.²⁵⁰

191. Colombia has the Office of the Human Rights Ombudsperson (Defensoría del Pueblo) as a national human rights institution with a constitutional and statutory mandate to protect and promote human rights in Colombia.²⁵¹ The Commission notes the work done by this institution, which in 2019 issued several early warnings that set forth the situation of risk faced by various sectors of the Colombian population.

192. In the area of **democratic institutional framework**, the Commission has highlighted various gains and challenges in Colombia. Among the gains, on October 27, 2019 regional elections were held, which for the first time included the participation of candidates of the FARC party. The Commission has learned that a former FARC combatant was elected mayor of Turbaco, Bolívar.²⁵²

193. The State also reported that in keeping with what was sought by the FARC party at the Inter-institutional Coordination Roundtable for Stabilization and Consolidation, complementary security measures were ordered to guarantee the security of the candidates of the FARC party.²⁵³ Moreover, the State reported that on July 8, 2019 the Plan of Transparency and Security for the 2019 Regional and Local Elections was adopted, providing for various actions to ensure the normal development of the elections.²⁵⁴ Nonetheless, the Commission expressed its concern over the situation of violence that came up in the election process, which culminated on October 27. From the outset of the election campaigns, in July 2019, there were high levels of violence against political candidates; the Commission learned of 24 acts of violence, including threats, kidnappings, and assassination attempts.²⁵⁵

²⁴⁷ Telesur, [Duque sanciona ley estatutaria de la JEP en Colombia](#), June 6, 2019; El Heraldo, [Presidente sanciona Ley Estatutaria de la JEP](#), June 7, 2019.

²⁴⁸ El Espectador, [Corte Constitucional amplió la vigencia de la Ley de Víctimas](#), December 5, 2019; Semana, [Corte Constitucional ordena ampliación de la ley de víctimas](#), December 5, 2019.

²⁴⁹ Government of Colombia, Diplomatic Note No. S-GAIID-19-045379, October 24, 2019, pp. 11 and 12.

²⁵⁰ Government of Colombia, Diplomatic Note No. S-GAIID-19-045379, October 24, 2019, p. 12.

²⁵¹ Government of Colombia, Diplomatic Note No. S-GAIID-19-045379, October 24, 2019, p. 14.

²⁵² El Espectador, [Guillermo Torres, un excombatiente de las Farc, nuevo alcalde de Turbaco, Bolívar](#), October 27, 2019; El Heraldo, [Guillermo Torres, el excombatiente de Farc que ganó la Alcaldía de Turbaco](#), October 27, 2019.

²⁵³ Government of Colombia, Diplomatic Note No. S-GAIID-19-045379, October 24, 2019, p. 5.

²⁵⁴ Government of Colombia, Diplomatic Note No. S-GAIID-19-045379, October 24, 2019, p. 5.

²⁵⁵ IACHR, Press Release No. 221/19, [CIDH expresa preocupación por violencia durante el proceso electoral en Colombia](#), September 10, 2019.

194. In the area of **citizen security** the State reported that the number of homicides per 100,000 population has diminished considerably during the last eight years. It indicated that during the first half of 2019 there was a decline of 2.7% compared to the same period the previous year.²⁵⁶ The Commission, for its part, has learned of a 6% reduction in the first four months of 2019 compared to the same period in 2018. According to what has been reported, for the first four months of 2019 the homicide rate was approximately 24.4 per 100,000 population, whereas in 2018 the homicide rate was 24.9 per 100,000 population.²⁵⁷ Despite this, in the first half of 2019 different dynamics were identified related to the presence and activities of illegal armed groups that continue re-accommodating in an effort to recover the territories abandoned by the FARC-EP.²⁵⁸ The IACHR also observed the increased violence in the department of Cauca. According to the UN Verification Mission, there were 19 assassinations in just one week, from August 30 to September 2.²⁵⁹

195. The Commission also expressed its concern over the acts of repression by state agents, such as the acts of violence that occurred in the context of the National Strike that began on November 21, 2019 in various parts of the country. From the outset of the demonstrations there were several acts of disproportionate use of force by members of the Antiriot Mobile Squadron (ESMAD: Escuadrón Móvil Antidisturbios) in which several persons were wounded. In Bogotá, as a result of this disproportionate use of force the young man Dylan Cruz died after having been injured by a teargas canister.²⁶⁰

196. As regards the **rights of indigenous peoples**, the IACHR condemned the attacks on and assassinations of persons, authorities, and members of the Guardia Indígena as well as the increased violence in the department of Cauca, Colombia.²⁶¹ The IACHR also sent a request for information to the State in August 2019 to learn about the actions implemented to investigate attacks against the Guardia Indígena and the deaths of Gerasain Yatacue, Kevin Mestizo, Eugenio Tenorio, and Julio de Toribio, all in the department of Cauca.²⁶² In its response the State reported that the Elite Corps of the Judicial Police had gone to the crime scene to perform the corresponding investigative steps; they were informed by the indigenous authorities that the indigenous jurisdiction would take charge of the respective investigations.²⁶³ The Commission continued receiving information on this worrisome situation during its 174th period of sessions, where it was informed of the increased number of assassinations of and threats against ancestral authorities and members of the Guardia Indígena in retaliation for their organizing efforts aimed at claiming their rights.²⁶⁴

197. The State reported that the restitution of ethnic territorial rights currently encompasses the management of 382²⁶⁵ territories of ethnic communities, of which 75% (288 territories) correspond to territories of indigenous communities and/or peoples. Of those ethnic territories, 225 are in the process of

²⁵⁶ Government of Colombia, Diplomatic Note No. S-GAIID-19-045379, October 24, 2019, p. 28.

²⁵⁷ Fundación Ideas para la Paz, [¿Cómo están los homicidios en Colombia?](#), June 2019.

²⁵⁸ OAS, [Twenty-seventh Report of the Secretary General to the Permanent Council on Organization of American States Mission to Support the Peace Process in Colombia \(MAPP/OAS\)](#), OEA/Ser.G CP/doc. 5566/19, October 30, 2019, pp. 5 and 6.

²⁵⁹ United Nations Verification Mission in Colombia, [Report of the Secretary General](#), S/2019/780, October 1, 2019, para. 60

²⁶⁰ IACHR, Press Release No. 313/19, [IACHR Concerned about Repression by Government Agents in Colombia. Rejects All Forms of Violence in the Context of Protests](#), December 2, 2019.

²⁶¹ IACHR, Press Release No. 292/19, [IACHR Strongly Condemns Attacks and Murders Targeting Individuals, Authorities, and Members of the Indigenous Guard in Colombia](#), November 12, 2019.

²⁶² Request for information to the State as per Article 41 of the American Convention on Human Rights.

²⁶³ Government of Colombia, Diplomatic Note No. S-GAPDH-19-043375, September 20, 2019.

²⁶⁴ IACHR, Public Hearing, 174th period of sessions, [Violence and situation of indigenous peoples in the department of Cauca in Colombia](#), November 12, 2019.

restitution and are situated in the 170 municipalities with Development Programs with a Territorial Approach (PDET: Programas de Desarrollo con Enfoque Territorial), corresponding to approximately 59% of all restitution of territorial rights in favor of ethnic communities in Colombia.²⁶⁶ Nonetheless, the IACHR learned about the persistence of forced displacement and dispossession of lands associated with illicit groups, extensive single-crop agriculture, illegal mining, and the failure to guarantee the fundamental right to prior consultation, among others.²⁶⁷

198. As regards the rights of **human rights defenders, social leaders, and indigenous and Afrodescendent persons** the State reported that from January 2016 to September 2019 there have been 311 assassinations, 90 of them in 2019.²⁶⁸ In this respect, it indicated that in 2019 there was a reduction of 24.34% in the number of homicides of social leaders and human rights defenders.²⁶⁹ The IACHR observed that civil society organizations also reported a 23% reduction in assassinations of members of these groups during the first half of 2019.²⁷⁰ The IACHR also observed that threats were the most common type of attack in 2019. In this respect, the IACHR has learned of a 75% increase in threats against members of these groups in the first half of the year, compared to the same period in 2018.²⁷¹ The State reported that the Office of the Attorney General has defined a specific methodology for investigating threats against these groups; so far it has resulted in three convictions for this offense.²⁷²

199. On the situation of **afrodescendent persons**, the IACHR observed the persistence of alleged threats, assassinations, and other forms of violence against Afrodescendent leaders who are claiming lands, and defenders of collective territories and the environment²⁷³; as well as the new facts of violence in the post-accord context that continue to have a differentiated and disproportionate negative impact on the Afrodescendent population.²⁷⁴ In 2019, the Commission learned of the assassinations of Maritza Quiroz Leiva, a land claimant and leader of Afrodescendent women victims of displacement in Santa Marta, Magdalena, and of María del Pilar Hurtado, an Afrodescendent woman and defender of lands in Tierralta, Córdoba.²⁷⁵ In addition, the IACHR learned of the attack directed against Francia Márquez, an Afrodescendent leader and winner of the Goldman Award, and other members of the Asociación de Consejos Comunitarios del Norte del Cauca (ACONC: Association of Community Councils of Northern Cauca), in May 2019²⁷⁶; and of the persecution

²⁶⁶ Government of Colombia, Diplomatic Note No. S-GAIID-19-045379, October 24, 2019, paras. 273 to 276.

²⁶⁷ Declaration, Organización Indígena de Antioquia (OIA), “Estándares Interamericanos en materia indígena y difusión del Informe las Mujeres Indígenas y sus Derechos Humanos en las Américas,” June 27, 2019 [in Archive of the IACHR]; Office of the Human Rights Ombudsperson of Colombia, note sent to the IACHR on November 13, 2019, Aportes para el seguimiento del cumplimiento a las recomendaciones incluidas en el Informe Verdad Justicia y Reparación, p. 1 [in Archive of the IACHR], Office of the Human Rights Ombudsperson of Colombia, note sent to the IACHR on June 24, 2019, “Contexto situación de DDHH de los pueblos indígenas en Colombia,” p. 1 [in Archive of the IACHR].

²⁶⁸ Government of Colombia, Diplomatic Note No. S-GAIID-19-045379, October 24, 2019, pp. 40 and 41.

²⁶⁹ Government of Colombia, Diplomatic Note No. S-GAIID-19-045379, October 24, 2019, p. 41.

²⁷⁰ Programa Somos Defensores, [Defensores, ¿El juego final? Informe semestral enero – junio 2019](#), October 9, 2019, p. 7

²⁷¹ Programa Somos Defensores, [Defensores, ¿El juego final? Informe semestral enero – junio 2019](#), October 9, 2019, p. 90.

²⁷² Government of Colombia, Diplomatic Note No. S-GAIID-19-045379, October 24, 2019, p. 43.

²⁷³ Noticias ONU, [Alarma por los continuos asesinatos a defensores de derechos humanos en Colombia](#), May 10, 2012.

²⁷⁴ Unidad de Víctimas, [Red Nacional de Información \(RNI\). Desplazamiento – Enfoque diferencial](#), Corte a 1 agosto 2019; United Nations High Commissioner for Refugees (UNHCR), [Informes de desplazamientos masivos 2019](#), January 2019.

²⁷⁵ IACHR, Press Release, No. 132/19, [IACHR and Regional Branches of the OHCHR Concerned about the Situation of Human Rights Defenders in the Americas in the First Four Months of 2019](#), May 30, 2019; El Espectador, [María del Pilar Hurtado, la líder que había denunciado “casas de pique.”](#) June 24, 2019

²⁷⁶ Semana, [Francia Márquez denuncia atentado en su contra y otros líderes en Cauca](#), May 4, 2019; CNN, [Francia Márquez, la colombiana ganadora del llamado “Premio Nobel del medio ambiente”, sufrió un atentado en Colombia](#), May 6, 2019.

of Danelly Estupiñán, a leader of Proceso de Comunidades Negras (PCN) and promoter of the Civic Strike in Buenaventura.²⁷⁷

200. As regards the **rights of stateless persons**, the Commission welcomes the measures adopted by the Colombian State to eradicate statelessness and guarantee the right to nationality. In particular, the IACHR values Resolution 8,470, adopted by the Office of the National Civil Registry of Colombia, which makes it possible to enter in the civil registry and grant Colombian nationality to the children of Venezuelan parents who are born in Colombia as of August 19, 2015.²⁷⁸

201. In addition, Law 1,997 establishes a special and exceptional regime for the children of Venezuelan parents in a situation of regular or irregular migration or who are seeking asylum who are born in Colombian territory from January 1, 2015 until September 16, 2021 to acquire Colombian nationality.²⁷⁹ In addition, the IACHR has followed up on other measures adopted by Colombia to fight statelessness and, in a press release, highlighted the judgment of the Constitutional Court that ordered the Office of Civil Registry to enter the birth outside of the period indicated of a girl without demanding the apostille requirement, and the adoption of Circular 168 by the Office of the Registry, which mandates the entry in the civil registry of the birth of the children of foreign persons born in Colombia when no other state will recognize their nationality, without requiring proof of domicile.²⁸⁰ In addition, the Commission notes in a positive light the ratification of the 1954 Convention relating to the Status of Stateless Persons by Colombia in the context of the 70th session of the Executive Committee UNHCR's Program.²⁸¹

202. As regards the **rights of migrants**, the Commission welcomes the various measures adopted by the State to benefit these groups. In particular, the IACHR highlights the adoption of the policy document CONPES 3950 entitled "Strategy for Addressing Migration from Venezuela," which establishes strategies for attention in health care, education, early childhood, children and adolescents, housing and security of the migrant population, among others.²⁸² In addition, the IACHR values the bill introduced by the national government which, mindful that Colombia is a sending, transit, and receiving country of migrants, has the purpose of establishing a comprehensive migration policy that answers to the need to ensure safe and orderly migration, and to regulate based on coordination among various public institutions.²⁸³

203. As regards violence against **women**, the Commission observed that sexual violence continues to be a recurrent crime in Colombian society. In this respect, the Commission has learned of the increase in the number of cases of purported sex crimes against women and girls. During the first seven months of 2019, 12,844 were said to have received care services for sex crimes in different offices of the Institute of Forensic Medicine (Medicina Legal) in Colombia. These figures indicate that in 2018 there were 53 fewer cases of sex crimes than those on record for the same period in 2019.²⁸⁴ In addition, the IACHR observed the increase in violence against women human rights defenders. According to civil society organizations, the first half of 2019

²⁷⁷ Amnesty, [Attacks on human rights defender investigated](#), September 25, 2019; Resumen latinoamericano, [Colombia. Danelly Estupiñán, lideresa que pasó de víctima a victimaria por denunciar](#), July 2, 2019; Programa Acua, [Organizaciones internacionales preocupadas por seguridad de lideresa afro](#), August 28, 2019.

²⁷⁸ National Civil Registry, Press Release No. 0035, August 2019, [A PARTIR DE HOY, REGISTROS CIVILES DE NACIMIENTO DE HIJOS DE VENEZOLANOS NACIDOS EN COLOMBIA TENDRÁN LA NOTA "VÁLIDO PARA DEMOSTRAR NACIONALIDAD."](#) August 20, 2019.

²⁷⁹ Republic of Colombia, Public Function, [Law 1997 of 2019](#), September 16, 2019.

²⁸⁰ IACHR, Press Release No. 042/19, [IACHR Welcomes Actions to Protect the Right to a Nationality and to Prevent Statelessness in the Region](#), February 25, 2019.

²⁸¹ Republic of Colombia, Ministry of Foreign Affairs, [Alto Comisionado para los Refugiados califica a Colombia como un ejemplo en la lucha contra la apatridia](#), October 8, 2019.

²⁸² Government of Colombia, Diplomatic Note No. S-GAIID-19-045379, October 24, 2019, para. 150.

²⁸³ Government of Colombia, Diplomatic Note No. S-GAIID-19-045379, October 24, 2019, para. 152.

²⁸⁴ El Espectador, [Reportes de violencia sexual contra menores han aumentado 15% en 2019: Medicina Legal](#), May 27, 2019; El Tiempo, [La violencia sexual, un delito que se ensaña con las niñas en Colombia](#), May 31, 2019; La opinión, [En 2019 van 12.844 denuncias sobre mujeres víctimas de delitos sexuales](#), August 9, 2019.

saw an increase in the number of assaults against women human rights defenders, accounting for 29% of all attacks directed against human rights defenders, whereas in 2019 they accounted for 26% of such attacks.²⁸⁵

204. The Commission also learned about the presentation, by civil society to the JEP, of two reports on sexual violence against women in the armed conflict; those reports document 72 cases of sexual violence in regions such as Bolívar, Antioquia, Nariño, Cauca, Amazonas, Caquetá, Casanare, and Santander.²⁸⁶ The Commission has learned about the various cases that have been opened in the Chamber for Recognition of Truth that reflect the application of differential approaches. Accordingly, as regards applying a gender perspective, Case 007 includes the investigation into acts of violence and sexual slavery of children who were victims of recruitment.²⁸⁷

205. As regards the **rights of children and adolescents**, the Commission has monitored the recruitment of children and adolescents by armed groups in Colombia. According to public information 63% of the early warnings issued by the Office of the Human Rights Ombudsperson were associated with the risk of recruitment and the use of children and adolescents by armed actors; the victims were Colombian and migrant – mostly Venezuelan – children and adolescents.²⁸⁸ In addition, three of the seven children who died in the bombing of an encampment of FARC dissidents in San Vicente del Caguán (department Caquetá) had been recruited by the FARC dissident groups.²⁸⁹

206. The IACHR also learned of the violence committed to the detriment of children and adolescents in Colombia. According to public information, 59 children and adolescents are victims of sexual violence every day; almost 70% of the victims are persons ages 5 to 14 years; and as of May there were 7,141 cases on record.²⁹⁰ Moreover, the child homicide rate is 20 per 100,000; from January to April alone there were 213 homicides of children and adolescents.²⁹¹ Accordingly, the IACHR welcomes the launching of the national campaign “Everything we do to them stays with them” by the Colombian Institute for Family Welfare (ICBF: Instituto Colombiano de Bienestar Familiar), whose purpose is to prevent violence against children and adolescents.²⁹²

207. As for the rights of migrant children and adolescents, the IACHR notes with satisfaction the issuance of the decree that guarantees Colombian nationality to almost 24,000 children born in the country to Venezuelan parents without immigration papers. The measure, called “Children First,” seeks to guarantee children the fundamental right to have a nationality with an administrative procedure that is free of charge.²⁹³ The Commission values this initiative, which prevents statelessness and protects the right of children and adolescents, in keeping with the relevant international obligations.

208. As regards **memory, truth, and justice**, during its 172nd period of sessions the Commission held a hearing on the “Special Jurisdiction for Peace in Colombia” and took note of the gains and challenges

²⁸⁵ Programa Somos Defensores, [Defensores. ¿El juego final? Informe semestral enero-junio 2019](#), October 2019, p. 90.

²⁸⁶ RCN, [72 casos de mujeres víctimas de violencia sexual llegan a la JEP](#), April 24, 2019; La FM, [JEP recibe 72 casos de mujeres víctimas de violencia sexual](#), April 24, 2019; El Tiempo, [Llegan a la JEP 72 casos de violencia sexual contra la mujer](#), April 24, 2019.

²⁸⁷ International Commission of Jurists, [Colombia: Jurisdicción Especial para la Paz, análisis a un año y medio de su entrada en funcionamiento](#), June 2019, p. 65.

²⁸⁸ El Tiempo, [Alerta por reclutamiento de niños venezolanos por grupos criminales](#), May 14, 2019.

²⁸⁹ RCN Radio, [Antes de bombardeo, había denuncia de reclutamiento de niños: Personero de Puerto Rico](#), November 6, 2019.

²⁹⁰ El Tiempo, [El Gobierno plantea estrategia contra el abuso infantil](#), que no cede, May 28, 2019.

²⁹¹ El Tiempo, [Solo Venezuela supera a Colombia en cifras de asesinatos de niños](#), June 9, 2019.

²⁹² Colombian Institute for Family Welfare, [ICBF lanza campaña nacional de cero tolerancia hacia la violencia contra la niñez](#), October 30, 2019.

²⁹³ Republic of Colombia, [Estado colombiano concede la nacionalidad a niños nacidos en Colombia, hijos de migrantes venezolanos, para proteger sus derechos](#), August 5, 2019.

faced by the JEP one year after it started up.²⁹⁴ In particular, the IACHR notes the opening of macro cases 006, on the “Victimization of members of the Unión Patriótica (UP) by agents of the State,” and 007, on the “Recruitment and use of children in the Colombian armed conflict.”²⁹⁵ In addition, the IACHR values the approval of the statute (Ley Estatutaria) of the Special Jurisdiction for Peace on June 6, 2019.²⁹⁶

209. The IACHR also learned that in the context of the investigations conducted by the JEP in Case 003, a mass grave was found in the department of Antioquia with the remains of at least 50 persons presumed to be victims of extrajudicial executions, in situations known as “false positives.”²⁹⁷ Finally, the Commission takes note of the concern expressed by civil society organizations in relation to the direction of the National Center for Historical Memory, which culminated in the withdrawal of 126 victims’ and human rights organizations from that institution.²⁹⁸

210. As regards **older persons** the IACHR values progress in the bill before the Congress for Colombia to accede to the Inter-American Convention on Protecting the Human Rights of **Older Persons** and encourages the State to adopt it soon.²⁹⁹

211. As regards the situation of the **rights of LGBTI persons**, the Commission highlights the existence of decisions and mechanisms for guaranteeing LGBTI persons the exercise of their rights and for making reparation for violations suffered. In particular, it notes the signing of the Plan for Collective Reparation, the objective of which is to remedy threats and displacement suffered by the Mesa LGBT from the sector known as Comuna 8 in Medellín³⁰⁰ – it is the first LGBT subject of collective reparation in Colombia³⁰¹ – as well as the handing down of judgments that recognize economic and property rights of LGBTI persons.³⁰² Nonetheless, the IACHR notes the prevalence of acts of violence against LGBTI persons or those perceived as such. According to civil society reports, in the first half of 2019 eleven homicides were committed against LGBT persons³⁰³, including the assassinations of at least four trans women in the department of Valle del Cauca.³⁰⁴

212. Regarding **persons with disabilities**, the IACHR welcomes the measures adopted in 2019 for the enforceability and effective attainment of the rights of persons with disabilities. Such is the case of Law No. 1996, adopted August 26, 2019, “which establishes the regime for the exercise of the legal capacity of persons

²⁹⁴ IACHR, Press Release No. 130/19, [IACHR Monitors Progress and Challenges Concerning Colombia’s One-Year-Old Special Jurisdiction for Peace](#), May 29, 2019.

²⁹⁵ JEP, [‘JEP abre caso 007: Reclutamiento y utilización de niñas y niños en el conflicto armado colombiano.’](#) March 6, 2019.

²⁹⁶ CNN, [Corte Constitucional de Colombia rechaza objeciones de Duque sobre la ley estatutaria de la JEP, ¿qué significa?](#), May 30, 2019; El Heraldo, [Presidente sanciona Ley Estatutaria de la JEP](#), June 7, 2019.

²⁹⁷ IACHR, Press Release No. 344/19, [IACHR Urges Colombia to Investigate Human Remains Found at Las Mercedes Cemetery](#), December 30, 2019; Semana, [Cementerio del horror: el lugar donde estarían ocultos los falsos positivos que el país no conoce](#), December 14, 2019.

²⁹⁸ Sitios de Memoria, [‘La RESLAC reclama una auditoría sobre el Director del CNMH’](#), December 14, 2019; El Nuevo siglo, [“Polvareda” por retiro de 126 organizaciones del Centro Memoria](#), February 28, 2019; La FM, [Director del Centro de Memoria, acusado de cometer 35 violaciones al código disciplinario](#), November 7, 2019.

²⁹⁹ *Help Age*, [Colombia a pocos pasos de adherirse a la Convención Interamericana de Personas Mayores](#), September 9, 2019; Republic of Colombia, Congress, [Aprobado proyecto de ley que busca proteger los derechos humanos del adulto mayor](#), October 1, 2019.

³⁰⁰ El Espectador; [Se firmó acuerdo de reparación para la Mesa LGBT de la comuna 8 de Medellín](#), July 31, 2019.

³⁰¹ MAPP/OAS, [Proceso de reparación colectiva de la Mesa LGBT Comuna 8 de Medellín](#).

³⁰² El Tiempo, [Ordenan pensión a mujer cuya pareja negó relación por estigma social](#), November 4, 2019.

³⁰³ Colombia Diversa, [El Prejuicio no Conoce Fronteras](#), 2019 and El Tiempo, [Colombia, el país de la región donde más matan personas LGBTI](#), August 14, 2019.

³⁰⁴ CNN en Español, [Dos asesinatos de mujeres transgénero en Colombia en lo que va corrido de 2019 preocupan a organizaciones](#), January 9, 2019; Vanguardia, [Investigan asesinato de mujer transgénero en el Centro de Bucaramanga](#), October 20, 2019; and RCN Radio, [Indignación en Cali por asesinato de integrante de comunidad LGTBI](#), September 28, 2019.

with disabilities who have reached the age of majority.”³⁰⁵ In the view of the Commission, this law represents a milestone because it guarantees, in law, the full legal capacity of all adults with disabilities on an equal footing with all other persons. It also eliminates the deprivation of civil rights (*la interdicción*) as a legal institution and establishes support agreements for decision-making.

213. As for the **freedom of expression**, in 2019 the Office of the Special Rapporteur observed with profound concern the excessive use of force in the context of the social protests that began on November 21, which led to restrictions on the freedom of expression with detentions of journalists, assaults, and multiple obstacles that they had to face while covering and broadcasting events as they were unfolding. With respect to the obligations to secure justice, the Office of the Special Rapporteur notes gains in Colombia at the same time as it warns of the context of impunity for crimes perpetrated in previous years, and in a climate of constant attacks on and stigmatization of journalists and media outlets, which also occurred in the electoral context. The Office of the Special Rapporteur documented the assassination of four media workers for motives purportedly tied to their professional work, and urged that the hypotheses related to such a connection be resolved. Finally, it observed gains in relation to the National Protection Unit and in relation to community radiobroadcasting.

COSTA RICA

- **General considerations**

214. With respect to **progress**, the IACHR notes that on April 25 Costa Rica signed the Inter-American Convention Against All Forms of Discrimination and Intolerance.

215. As regards the **challenges**, the IACHR observes that in relation to citizen security, while there has been a decline in the number of homicides in relation to the previous year, the figures continue to be high.

216. The State did not respond to the request for information sent to prepare this chapter.

- **Specific topics**

217. As regards the cross-cutting theme of **institutional framework for human rights**, the Commission has taken note of the designation of the new Human Rights Ombudsperson (Defensora de los Habitantes de la República).³⁰⁶ The IACHR welcomes the accession of the Office of the Ombudsperson to the Declaration of Commitment on Technical Cooperation and the Mechanism of Points of Contact of the IACHR and welcomes the participation of the Office in the Third Meeting for Sharing Good Practices on Human Rights, held in Medellín, Colombia.

218. According to the Index of Transparency in the Costa Rican Public Sector (ITSP: Índice de Transparencia en el Sector Público Costarricense), which is produced by the Office of the Ombudsperson, in 2019 the judicial branch was the institution with the best evaluation for its efforts to promote an institutional culture geared to good practices in access to information, accountability, citizen participation, and open data, through the websites of the public sector.

219. The Ministry of Justice and Peace, in coordination with the Ministry of Public Security and the Ministry of Culture and Youth, presented the National Agenda for the Prevention of Violence and Promotion of Social Peace 2019-2022: “Partnerships for Peace,” a document in the context of the National Strategy for Reducing Poverty, Bridge to Development. That agenda recognizes active programs and projects for violence prevention and promoting social peace in the country, taking into consideration perspectives of human rights, gender, youth, territory, and co-management.

³⁰⁵ [Law No. 1996](#), which establishes the regime for the exercise of legal capacity by persons with disability who are older persons, August 26, 2019.

³⁰⁶ [The Office of the Human Rights Ombudsperson \(Defensoría de los Habitantes\)](#).

220. As regards **citizen security**, according to figures of the Judicial Investigation Agency (OIJ: Organismo de Investigación Judicial), as of November 20, 2019, in all 502 homicides were reported, which reflects a reduction in relation to 2018, when as of the same date more than 530 cases were reported. It was also indicated that the projection for yearend would be some 542 cases, in contrast to 2018, when there were 585.³⁰⁷ This year the homicide rate was 11.9 per 100,000 population, compared to 12.1 per 100,000 the year before.³⁰⁸ The State said that it will implement a citizen security and violence prevention program focused on supporting the “Bridge to Prevention,” which is the citizen security component of the Bicentennial Social Plan (2019-2022).³⁰⁹ Despite the reduction in homicides in 2019, figures such as that reported from October 7 to November 7 of an average, of one murder every 12 hours, are alarming.³¹⁰ For its part, the OIJ indicated that 75% of the homicides correspond to settling of accounts or revenge, and that most of the victims are men 24 to 28 years of age and young persons in vulnerable zones.³¹¹ It was also reported that as of October, 77% of the homicide cases were resolved.³¹²

221. As for the **rights of migrants, asylum-seekers, and refugees**, the Commission continues to follow up on the situation of Nicaraguans in need of international protection in Costa Rica. In particular, the IACHR made two working visits to Costa Rica.³¹³ The first, from October 14 to 18, 2018³¹⁴, was aimed at gathering information to prepare its report on “The Forced Migration of Nicaraguans to Costa Rica.”³¹⁵ The report assesses the human rights situation of persons forced to migrate to Costa Rica, the procedure for recognizing refugee status, the international protection provided by the State, and access to and exercise of rights; and it makes recommendations. In the 2019 visit, from May 19 to 21, the Commission was informed of the persistence of the challenges documented in 2018 when it comes to guaranteeing effective access to health care, housing, education, and work for the Nicaraguans stemming from the length of the protection procedures and delays in accessing the documentation.³¹⁶ Nonetheless, the Commission recognized the important role of the Costa Rican State supporting the human rights of the Nicaraguan population and saluted the measures adopted to give protection.³¹⁷ According to the Office of the Ombudsperson, a bill is being drawn up against illegal trafficking of migrants that will include regulations for preventing, investigating, and punishing crime, as well as comprehensive care for migrants and Costa Ricans impacted such illegal trafficking and that requires the intervention of the State beyond an approach based on control and national security.³¹⁸

222. In May, Costa Rican civil society urged the State to grant greater protection to **human rights defenders**. Among its petitions, they asked that the Criminal Code be amended with the proposal in legislative file 19,610, which was introduced in 2015 and is in danger of being archived. The objective of this bill would

³⁰⁷ Crhoy.com, [País supera 500 homicidios: 4 muertes registradas durante últimas horas](#), November 20, 2019.

³⁰⁸ Nación, [Inseguridad impide a Costa Rica avanzar en índice de desarrollo](#), September 19, 2019; homicide rate 12.1 per 100,000 for 2018. IACHR, [Chapter IV.A](#), Annual Report, para. 163.

³⁰⁹ Elmundo.cr, [Costa Rica invertirá en seguridad ciudadana y prevención de violencia con apoyo del BID](#), September 30, 2019.

³¹⁰ Crhoy.com, [Baño de sangre: último mes reporta un asesinato cada 12 horas](#), November 10, 2019.

³¹¹ Crhoy.com, [Baño de sangre: último mes reporta un asesinato cada 12 horas](#), November 10, 2019.

³¹² Diario Extra, [Epidemia de homicidios se mantendría en 2019](#), October 25, 2019.

³¹³ IACHR, Press Release No. 146/19, [IACHR Concludes Working Visits to Costa Rica and Honduras to Monitor the Predicament of Nicaraguans Who Have Been Forced to Flee Their Country](#), June 12, 2019. IACHR, Press Release No. 234/19, [CIDH presenta el Informe sobre Migración Forzada de Personas Nicaragüenses a Costa Rica](#), September 20, 2019.

³¹⁴ IACHR, Press Release No. 233/18, [Observaciones preliminares sobre la visita de trabajo para monitorear la situación de personas nicaragüenses que se vieron forzadas a huir a Costa Rica](#), November 1, 2018.

³¹⁵ IACHR, Press Release No. 234/19, [CIDH presenta el Informe sobre Migración Forzada de Personas Nicaragüenses a Costa Rica](#), September 20, 2019.

³¹⁶ IACHR, Press Release No. 146/19, [IACHR Concludes Working Visits to Costa Rica and Honduras to Monitor the Predicament of Nicaraguans Who Have Been Forced to Flee Their Country](#), June 12, 2019.

³¹⁷ IACHR, Press Release No. 234/19, [CIDH presenta el Informe sobre Migración Forzada de Personas Nicaragüenses a Costa Rica](#), September 20, 2019.

³¹⁸ Republic of Costa Rica, Office of the Human Rights Ombudsperson, [Informe anual de labores 2018-2019](#), June 7, 2019, p. 55.

be to impose a statutory definition in the Criminal Code and specific sanctions of imprisonment for those who deprive human rights defenders of their life or liberty.³¹⁹ In March, the IACHR repudiated the assassination by multiple gunshot wounds of Sergio Rojas Ortiz, a Bribri indigenous leader, in Salitre de Buenos Aires, province of Puntarenas; he was a beneficiary of precautionary measures first granted by the IACHR in 2015.³²⁰ In this respect, the IACHR made a working visit on May 20 and 21, 2019, whose objectives included supervising implementation of the precautionary measure adopted in favor of the Bribri and Teribe indigenous peoples. The IACHR received information about the establishment of a special group for investigating the assassination of Bribri indigenous leader Sergio Rojas. In meetings with both the State and the representatives and beneficiaries, the Commission recognized the parties' openness to dialogue and mutual recognition of the urgent need to adopt specific short-, medium-, and long-term measures to overcome the structural problem that makes it such that the members of the Bribri and Teribe peoples continue to face the situation of grave risk that led the Commission to grant precautionary measures since 2015. The Commission recognizes the will of the Costa Rican State to comply with the precautionary measures and urges it to redouble its efforts to carry out the plans and measures reported to guarantee the rights of the Bribri and Teribe peoples and to investigate the events that have posed risks to them in order to prevent the situation from remaining in impunity. According to the most recent information received from the State, the Rojas investigation continues.

223. According to the official figures, in the territory of Salitre 40% of the land recognized is in the possession of **indigenous peoples** whereas in the territory of Térraba it is only 12%. During the working visit to Costa Rica in 2019, Bribri and Teribe indigenous persons agreed that the lack of security in respect of the possession of the lands that have belonged to them from ancestral times as well as the lack of a response with specific effects to date have brought about a conflictive situation associated with land tenure issues that continues exposing the beneficiaries to a situation of risk, especially in the face of threats or harassment by non-indigenous persons who remain in the zone. According to the information received by the representatives of the beneficiaries of the precautionary measure, the prolonged lack of enforcement of at least eight eviction orders – several of which are being challenged in court – has brought about the need to regain confidence in new measures and plans reported by the State with a view to solving the matter. In this context, Bribri and Teribe indigenous persons reported on the actions taken for the peaceful recovery of the lands and the tensions that have marked their land claims. The IACHR received information on groups of landowners who were making threats, in some cases armed, against members of the indigenous communities, and indicating that assaults have occurred. Community leaders, in particular of the Broran, are also targets of a smear campaign and a host of threats through social networks by non-indigenous persons who are living within their ancestral lands. Despite the use of an emergency line, it was alleged that there are major delays such that the authorities do not arrive in a timely manner, and no sanctions are imposed on those responsible. In several cases the reports filed appear to produce no effective results or are not received, which over time could well have discouraged the members of the indigenous communities from filing them, given the difficulties faced when it comes to going and lodging them. The situation of insecurity within the territory has been worsened by judicial decisions by one agrarian court which, failing to recognize the rights of the indigenous communities, handed down injunctive measures seeking evictions from farms within the areas which ancestrally correspond to the Bribri and Teribe peoples, a situation that highlights the need to finally clear up title to the land so as to confer legal certainty to the indigenous peoples. The Commission took note of the renewed commitment of the authorities of the Costa Rican State to adopt measures with a view to solving this long-standing and complex issue, and also to seek to improve the dialogue in an effort to regain the trust of the communities. The delegation of the IACHR received information on the efforts made by the current administration to implement the Plan for the Recovery of Indigenous Territories in the area through visits to the territories and topographical surveys. The IACHR urges the authorities of the State and the beneficiaries of the precautionary measure to continue making progress in implementing the aforementioned plan.

224. As regards the **rights of children and adolescents**, the IACHR takes note of the results of the Survey of Women, Children, and Adolescents published by the National Institute of Statistics and Census. The

³¹⁹ Elmundo.cr, [56 organizaciones solicitan protección para defensores de Derechos Humanos](#), May 20, 2019.

³²⁰ IACHR, Press Release No. 78/19, [IACHR Condemns Murder of Indigenous Bribri Leader Who Was a Beneficiary of Precautionary Measures in Costa Rica](#), March 22, 2019.

survey data indicate that 16% of the population of youths do not go to secondary school and that 42% do not graduate. In addition, the survey notes that 16% of girls and adolescent females under 18 years of age are already mothers.³²¹ The Office of the Ombudsperson reported that 30% of the homes of the National Child Welfare Agency (Patronato Nacional de la Infancia) are overcrowded or overpopulated.³²² At the same time, the report of the United Nations Children’s Fund indicated that 34% of all children and adolescents live in poverty in Costa Rica.³²³ The IACHR welcomes the launch of the campaign “Cúdamme Nutritiva-mente” (“Take care of me nutrition-and-mindfully”) by the College of Professionals in Psychology and the College of Professionals in Nutrition of Costa Rica, which enjoys the support of the National Child Welfare Agency and UNICEF, seeking to tackle the obesity that affects three of every 10 children under 12 years of age in the country.³²⁴

225. As regards **afrodescendants**, the IACHR notes the designation of a Commissioner for Afrodescendent Affairs by the Presidency of the State of Costa Rica, who will work on inter-institutional articulation with civil society and in coordination with the First Vice President of the Republic.³²⁵ In addition, on April 25 Costa Rica signed the Inter-American Convention Against All Forms of Discrimination and Intolerance.³²⁶

226. As regards **women’s rights**, it is noted that the cabinet of ministers includes 12 women of a total of 25 members, one of whom is an Afrodescendent woman. Since 2016, the Costa Rican Social Security Fund (CCSS: Caja Costarricense del Seguro Social) instructed its managers to include, in their plans, the construction of the Laboratory for In Vitro Fertilization at the Hospital de las Mujeres, which, through the Unit for High Complexity Reproductive Medicine, will serve patients who require techniques associated with assisted human reproduction.³²⁷ Moreover, according to data from the National Women’s Institute (Inamu: Instituto Nacional de las Mujeres) in 2018, 24 women were victims of femicide at the hands of their husbands, former partners, or boyfriends.³²⁸ In addition, it is noted that in December the technical standard for therapeutic abortion established in the Criminal Code was signed.³²⁹

227. The IACHR learned that at private centers for that provide care for **older persons** that are not duly overseen by the State emotional abuse and physical assaults are common, along with the failure to administer medications, or persons are over-sedated, in addition to the lack of personal hygiene, poor food, and poor infrastructure conditions.³³⁰ The Office of the Ombudsperson reported that one of the great challenges Costa Rica faces is incorporating aging and being older into the management of waiting lists for appointments for diagnostic exams, consultations in medical specialties, and surgery. In addition, it has insisted that being an older person be recognized as a variable when defining actions and strategies for development, particularly in making recommendations for the management of applications for the non-contribution-based old age pension

³²¹ INEC, [Encuesta de Mujeres. Niñez y Adolescencia 2018](#), August 2019. El País, [Los derechos humanos de la niñez y adolescencia siguen siendo un reto en América Latina y el Caribe](#), August 29, 2019.

³²² Republic of Costa Rica, Office of the Human Rights Ombudsperson, [30% de albergues del PANI hacinados o sobrepoblados](#), July 11, 2019.

³²³ EFE, [UNICEF llama a enfrentar los retos pendientes sobre la infancia en Costa Rica](#), November 20, 2019.

³²⁴ PANI, [3 de cada 10 niñ@s menores de 12 años sufren obesidad en Costa Rica](#), November 12, 2019.

³²⁵ Republic of Costa Rica, Presidencia, [Presidencia designa Comisionado para Asuntos de la Afrodescendencia](#), August 31, 2019.

³²⁶ Republic of Costa Rica, [Costa Rica firma Convención Interamericana contra toda forma de discriminación e intolerancia](#), April 25, 2019.

³²⁷ Republic of Costa Rica, [Costa Rica demostró que es capaz y el Gobierno que es responsable y determinado](#), May 2, 2019.

³²⁸ Teletica.com, [400 mujeres se ven obligadas a huir cada año de sus casas a causa de la violencia doméstica](#), May 2019.

³²⁹ Republic of Costa Rica, Presidency of the Republic, [Firmada norma técnica para la interrupción terapéutica del embarazo](#), December 12, 2019; La Vanguardia, [Alvarado firma norma técnica para el aborto terapéutico en Costa Rica](#), December 13, 2019.

³³⁰ Diario Extra, [Maltratos en hogares de ancianos](#), January 18, 2019.

(RNC), which has displayed its weaknesses, given the resistance to recognizing aging or the situation of older persons as a human rights issue.³³¹

228. Turning to **economic, social, cultural, and environmental rights**, in the area of environmental rights it is noted that the National Carbon Reduction and Elimination Plan (Plan Nacional de Descarbonización) was launched in order to do without polluting fuels, turn back the growth of greenhouse gas emissions, and inject dynamism into the economy from a green perspective.³³²

229. In the area of **freedom of expression**, a trend was observed towards an increase in violent acts against media outlets and journalists in the context of social protest, accompanied by excessive use of force against the protesters. In addition, it took note of proposed legislation pending consideration by the Congress that would establish regulations on the exercise of the right to peaceful assembly whose provisions could have a negative impact on the freedom of expression. The Office of the Special Rapporteur for Freedom of Expression saluted the judgment of August 9 by the Constitutional Chamber of the Supreme Court, which ruled that it was unconstitutional to require membership in a professional association as a condition to work as a journalist.

DOMINICA

- **General considerations**

230. In terms of **progress**, the IACHR notes that Dominica held general elections on December 6, 2019.

231. With respect to the **challenges**, the IACHR notes the existence of physical abuse of older persons. The Commission also observes the continuing criminalization of the LGBTI community, and that fact that the legal system still permits the corporal punishment of children and adolescents.

232. The State did not respond to the request for information sent for the preparation of this chapter.

- **Specific topics**

233. With regard to the cross-cutting **institutionality of human rights** theme, the IACHR reiterates that the country lacks a national human rights system and an Ombudsperson.

234. With regard to a **democratic institutional framework**, the IACHR takes note that Dominica held general elections in December 2019. The current prime minister was re-elected for a fourth consecutive term as head of government. The Dominica Labour Party won 18 of 21 seats in the House of Assembly.³³³ The IACHR reiterates that the country does not have a national human rights system or an ombudsperson's office.

235. The Commission observes that the recent elections were held with the same rules that date back 40 years, without achieving the electoral reform demanded by the population³³⁴ and suggested by the Joint Special Mission made up of representatives of CARICOM, the Commonwealth Secretariat, and the OAS, at the request of the Government of Dominica.³³⁵ This mission recommended that the country update the voter

³³¹ Republic of Costa Rica, Office of the Human Rights Ombudsperson, [País debe revertir condiciones de desigualdad de personas adultas mayores](#), October 1, 2019.

³³² Republic of Costa Rica, [Costa Rica demostró que es capaz y el Gobierno que es responsable y determinado](#), May 2, 2019.

³³³ Jamaica Observer, [PM Skerrit holds on to opposition in Dominica polls](#), December 7, 2019.

³³⁴ Star Tribune, [Police fight protesters on Caribbean island of Dominica](#), November 19, 2019.

³³⁵ The Commonwealth, [Joint Special Mission to Dominica](#), August 5, 2019.

rolls and issue an ID card with biometric data, among other recommendations.³³⁶ Similarly, the Electoral Reform Group, a multisectoral structure established to advance the electoral reform in Dominica, submitted its final report, in which it appealed to the Government to eliminate inconsistencies in the Voters' List and simplify and complex provisions of the electoral law in force.³³⁷

236. The IACHR expresses its concern over the physical abuse of **older persons** reported in Dominica, mostly by persons they trust or who are entrusted with their care. Financial and sexual abuse were also reported.³³⁸ As for the rights of **LGBTI** persons, consistent with the 2018 Annual Report, the Commission notes with concern that Dominica continues to criminalize acts of "sodomy" between adult persons, imposing penalties of up to 10 years and the possibility of confinement in psychiatric institutions to receive treatment (Sexual Offences Act, section 16).³³⁹

237. As regards the rights of **children and adolescents**, the Commission notes with concern that Article 5 of the Children and Young Persons Act 1970 includes the right of any parent, teacher, or "other person having the lawful control or charge of a juvenile" to administer "reasonable punishment" to him or her. In addition, the laws for protection from domestic violence (2001) and on assaults on persons (1871) are not interpreted so as to prohibit the corporal punishment of children and adolescents.³⁴⁰ Accordingly, the IACHR calls on to the State to prohibit any kind of violence and corporal punishment of children and adolescents in care environments, including the home and school.

238. The IACHR also continues to monitor the consideration of the bill that seeks to repeal any law that discriminates against children and adolescents who have been born outside of a legally established marriage. The legislation in force in Dominica excludes children considered "illegitimate" from being to judicially establish their paternity or maternity.³⁴¹ The bill was initially presented in 2016 and continues to be before the legislature of Dominica. The IACHR urges the State to eliminate all forms of discrimination against children and adolescents, in particular on grounds having to do with their birth.

239. As regards the death penalty, the IACHR finds it worrisome that it is still on the books in the country's laws, even though no executions have been carried out in recent years. The Commission notes, moreover, that, as of December 2018, there was no one in the State sentenced to the death penalty, according to Amnesty International's report on the subject of April 2019.³⁴²

ECUADOR

- **General considerations**

240. With respect to **progress** in Ecuador, the IACHR takes note of the various measures adopted by the State to strengthen the human rights institutions; the approval by the National Assembly of Ecuador of the resolution condemning and combatting gender violence, femicide, racism, xenophobia, and intolerance, as well as the judgment of the Constitutional Court recognizing the right to same-sex marriage. Along the same lines, the Commission takes note of the adoption of the Organic Law on Older Persons, which regulates the exercise of their rights and constitutional guarantees.

³³⁶ CARICOM, The Commonwealth, OAS, [Report of the Joint CARICOM-Commonwealth-OAS Special Mission to Dominica](#), August 2019, p. 9.

³³⁷ Dominica News Online, [Electoral reform group calls for delay in elections, in keeping with Constitution, to ensure election reform](#), August 16, 2019.

³³⁸ Dominica News Online, [Elder abuse a major concern in Dominica](#), June 19, 2019.

³³⁹ IACHR, [2018 Annual Report: Dominica](#), para. 174.

³⁴⁰ Global Initiative to End All Corporal Punishment of Children, [Country Report: Dominica](#), December 2019, p. 2.

³⁴¹ Government of Dominica, [Status of Children Bill](#), October 9, 2018, p. 1.

³⁴² Amnesty International, [Global Report: Death Sentences and Executions](#), April 2019, p. 13.

241. At the same time, the Commission observes major human rights **challenges** in Ecuador in 2019, particularly in the context of the social protests that took place from October 3 to 13, after the economic measures suspending fuel subsidies announced by the national government. At the State's invitation, the IACHR visited Ecuador from October 28 to 30, 2019, with a view to observing, in situ, the human rights situation in the country following the social protests. In its preliminary observations on the visit,³⁴³ the Commission stressed that at first the demonstrations had been peaceful, but during the first 48 hours non-peaceful incidents were reported along with a possible escalation in the violence at the protests, including negative impacts on agents of the State. In this context, the executive branch established a state of emergency and a curfew and mobilized the Armed Forces. Nonetheless, according to information received by the Commission, the reaction of the police forces to the dissolution of the demonstrations was disproportionate, causing injuries to both protestors and persons not protesting. Along these lines, according to data provided to the IACHR, at least eight persons died violently and/or as a consequence of the disproportionate use of force by state agents.

242. The State response to the request for information sent out for preparing this chapter.

- **Specific topics**

243. As regards the **institutional framework for human rights**, the Commission has taken note of the designation of a new Human Rights Ombudsperson³⁴⁴, an autonomous and independent office for the promotion and defense of human rights. In addition, it notes the signing of a technical cooperation agreement with the Commission for strengthening human rights capacities in the context of which major activities were carried out during the observation mission.³⁴⁵ In addition, it applauds the accession of the Office of the Human Rights Ombudsperson to Declaration of Commitment on Technical Cooperation and the Mechanism of Points of Contact of the IACHR³⁴⁶ and the participation of the Office in the Third Meeting for Sharing Good Practices, held in Medellín, Colombia.

244. The IACHR also recognizes the progress in the institutional framework, which will facilitate access for persons from the Galapagos Islands to the national human rights institution.³⁴⁷

245. As regards **citizen security** and **access to justice**, the IACHR learned of the negative impacts suffered by persons in the context of the social protests in Ecuador. According to the information provided by the Office of the Human Rights Ombudsperson on what happened on that occasion, 11 persons lost their lives, at least 1,340 were injured, and 1,192 were arrested, of whom 80% were released. The information received describes primarily a pattern of violations of the right to humane treatment as a result of the disproportionate use of force by state agents against protesters and persons not participating in the social protests. The main groups affected are children and adolescents; indigenous persons; older adults; journalists; as well as medical personnel and volunteers providing humanitarian assistance.

246. The IACHR also observed with concern the human rights violations against the indigenous movement, and the impairments of the rights to life, physical and psychological integrity, and due process, among others³⁴⁸, in the context of the uprising and national strike from October 3 to 13, 2019, during which time the indigenous organizations, through their grassroots and the Confederación de Nacionalidades

³⁴³ CIDH, [CIDH Presenta observaciones de su visita a Ecuador](#), 14 de enero de 2020.

³⁴⁴ El Universo, [Freddy Carrión fue designado como nuevo defensor del pueblo](#), April 11, 2019

³⁴⁵ IACHR, [Press Release No. 285, CIDH culmina misión de observación a Ecuador](#), November 5, 2019.

³⁴⁶ IACHR, Press Release No. 235, [CIDH saluda a Instituciones Nacionales de Derechos Humanos que firmaron la Declaración de Compromiso en materia de Cooperación Técnica](#), September 23, 2019.

³⁴⁷ Office of the Human Rights Ombudsperson. [Más de 16-000 Galapagueños podrán acceder a los servicios de la Defensoría del Pueblo](#), September 26, 2019.

³⁴⁸ Colectivo de Geografía crítica de Ecuador, [Análisis de la resistencia, protesta social y represión vividas en Ecuador entre 07 y 14 de octubre de 2019](#), October 21, 2019; Alianza de organizaciones por los Derechos Humanos, [Verdad, Justicia y Reparación. Informe de verificación sobre DDHH Paro Nacional y levantamiento indígena Quito-Ecuador](#), October 2019, p. 23.

Indígenas del Ecuador (CONAIE), reiterated their rejection of the economic measures announced by the President of the Republic of Ecuador.³⁴⁹ In this respect, grassroots indigenous communities and representatives of the most representative indigenous organizations of the country informed the IACHR of the police and military repression they were facing in territories such as the province of Azuay Cuencap/Molleturo, province of Cotopaxi, Tungurahua, Imbabura, province of Loja Saraguro, provinces of Pastaza and Morona Santiago Pastaza, and the province of Pichincha Cayambem, in addition to Quito.³⁵⁰

247. In area of the **rights of LGBTI persons**, the Commission learned of the judgment of Ecuador's Constitutional Court which, in the context of treaty interpretation in light of Advisory Opinion 24/17 of the Inter-American Court, recognized the right of persons to contract marriage with persons of the same sex.

248. With respect to the rights of **persons deprived of liberty**, the Commission received the information that the President of the Republic had decreed a state of emergency in all prisons nationwide. By Executive Decree 741 of May 16, for 60 days – which were extended for another 30 days by Executive Decree No. 823 of July 15, 2019³⁵¹ – that state of emergency was declared to “safeguard the rights of persons deprived of liberty as a priority group for attention.”³⁵² Despite that, and according to information in the public record, the Commission observes that while the state of emergency was in force there were 14 violent deaths in the various prisons of the Ecuadorian State.³⁵³ Similarly, after it was lifted more cases ensued of persons deprived of liberty who were murdered within the prisons.³⁵⁴

249. As regards the situation of women deprived of liberty, the Commission was informed during its 173rd period of sessions that despite the 2015 prison reform no gender perspective had been included.³⁵⁵ In this regard, the prisons appear not to have adequate or specialized services that take account of gender, nor is proximity to their families taken into account when women prisoners are transferred. This reportedly fragments their families, including the possible institutionalization of children.³⁵⁶ In addition, [by press release of January 24, 2019](#) the Commission lamented the events at a center for treating drug users that resulted in at least 18 persons losing their lives and eight wounded. In the aftermath, it urged the State to adopt the measures necessary to prevent the repetition of this incident and to investigate and punish the persons responsible.

250. As regards **women's rights**, the Commission also learned of the approval of the resolution on condemning and combatting gender violence, femicide, racism, xenophobia, and intolerance by the National Assembly of Ecuador. This resolution was welcomed by the Follow-up Mechanism of the Convention of Belém do Pará.³⁵⁷

251. As regards the **rights of children and adolescents**, the Commission has monitored the context of violence against children and adolescents in Ecuador. In particular, the IACHR is concerned about the maintenance and social acceptance of corporal punishment as a practice “to correct inappropriate behavior.”³⁵⁸

³⁴⁹ El Tiempo, [Estas son las exigencias del pueblo indígena en Ecuador](#), October 8, 2019.

³⁵⁰ Amazon Frontlines, [Informe sobre la situación de derechos humanos en Ecuador durante el estado de excepción](#), October 7, 2019.

³⁵¹ Presidency of the Republic of Ecuador, [Executive Decree No. 823](#), July 15, 2019.

³⁵² Presidency of the Republic of Ecuador, [Executive Decree No. 741](#), May 16, 2019, Considering paragraphs.

³⁵³ Actualidad RT, Nota de prensa: [21 muertes violentas en cárceles de Ecuador en 2019](#), July 25, 2019.

³⁵⁴ In this regard, see El Universo, Nota de prensa: [Nuevo disturbio en cárcel El Rodeo deja un muerto y un herido](#), August 30, 2019; El Universo, [Un policía y tres internos heridos en otro motín en cárcel de Turi](#), September 1, 2019; Metro Ecuador, [Un reo fue asesinado en la cárcel de Guayaquil debido a riña](#), September 22, 2019.

³⁵⁵ Information provided by the Fundación Regional de Asesoría en Derechos Humanos (INREDH), during meeting September 25 and 26, 2019, in the context of the 173rd period of sessions.

³⁵⁶ Information provided by the Fundación Regional de Asesoría en Derechos Humanos (INREDH), during meeting September 25 and 26, 2019, in the context of the 173rd period of sessions.

³⁵⁷ OAS, [Committee of Experts welcomes the Resolution to fight against gender violence and femicide in Ecuador](#), 2019.

³⁵⁸ El Comercio, [El castigo físico aún es medida de corrección](#), June 21, 2019.

In addition, Ecuadorian legislation still allows corporal punishment in the home.³⁵⁹ According to the study “Crecer con violencia: los castigos corporales dentro del hogar,” published by the Publications Center of the Pontificia Universidad Católica del Ecuador (PUCE), children ages 6 to 8 years are those who receive the most corporal punishment.³⁶⁰ In addition, the report indicates that of the 114 adults interviewed, 103 received physical punishment during their childhood; and 70% also physically abused their children or would if they had them.³⁶¹ In addition, the Commission was informed of acts of violence, in particular of sexual violence, committed to the detriment of children and adolescents in educational spaces in Ecuador, which indicates that 3 of every 5 students ages 11 to 18 years have been victims of a violent act in their schools.³⁶²

252. As regards the **rights of indigenous peoples**, in 2019 the State reported that it has promoted initiatives for the recovery of the indigenous languages and that it has participated actively in preparing the International Year of Indigenous Languages. In addition, it indicated that the National Secretariat for Human Rights was established, and that it serves as the reference authority for matters of plurinational and intercultural affairs. In addition, it noted that the National Council for the Equality of Peoples and Nationalities is currently updating the National Agenda for the Equality of Peoples and Nationalities 2019-2020.³⁶³

253. Nonetheless, in 2019 the Inter-American Commission on Human Rights (IACHR) received information on the failings that exist in several areas with respect to indigenous rights, especially as regards the holding of prior, free, and informed consultations before granting concessions, licenses, or permits for exploration or exploitation of natural resources that negatively affect the ancestral territories of indigenous peoples.³⁶⁴ In addition, according to information in the public record, several indigenous women of the Amazon region have alleged they have suffered attacks, sexual abuses, and death threats for defending their rights and publicly denouncing the possible environmental impacts of oil operations.³⁶⁵ Finally, the Commission continues to monitor complaints of the criminalization of leaders exercising indigenous jurisdiction in Ecuador,³⁶⁶ a matter that was highlighted during the “Criminalization and Indigenous Justice” hearing, held in connection with the 172nd period of sessions of the IACHR.³⁶⁷ Thus, during 2019, the IACHR monitored the legal situation of Leonidas Iza, President of the Indigenous and Campesino Movement of Cotopaxi, against who criminal proceedings had been brought on charges of kidnappings, extortion, performing public office on false pretenses (*simulación de funciones públicas*), and other crimes.³⁶⁸

254. As regards the **rights of migrants**, the Commission, in a [press release](#), expressed its concern over the measures adopted by the State of Ecuador to respond to the forced migration of Venezuelans, which entailed demanding passports or national ID cards with the respective apostilles and certificates of criminal record notarized and apostilled as a requirement for entry to the country, and the establishment of police and immigration controls at the border with Colombia. Without prejudice to the IACHR valuing the fact that Ecuador

³⁵⁹ Global Initiative to End All Corporal Punishment of Children, [Country Profile: Ecuador](#), August 2018.

³⁶⁰ Castro, Daniela; Merlo, Mario; Serrano, Alexandra, [Crecer con violencia: los castigos corporales dentro del hogar](#), Publications Center of the Pontificia Universidad Católica del Ecuador: 2019.

³⁶¹ Castro, Daniela; Merlo, Mario; Serrano, Alexandra, [Crecer con violencia: los castigos corporales dentro del hogar](#), Publications Center of the Pontificia Universidad Católica del Ecuador: 2019.

³⁶² IACHR, Archive of the IACHR, 2019.

³⁶³ Republic of Ecuador, 2019 annual report of the Republic or Ecuador to the Inter-American Commission on Human Rights (IACHR), October 10, 2019, pp. 10 and 11.

³⁶⁴ IACHR, [Situation of human rights of the indigenous and tribal peoples of the Pan-Amazon region](#), OAS/Ser.L/V/II. Doc. 176, September 29, 2019, paras. 73, 100, 110 and 138.

³⁶⁵ Amnesty International, [Ecuador: mujeres atacadas por defender la selva amazónica](#), August 13, 2019.

³⁶⁶ Esta situación fue expuesta a la CIDH en el marco de su 169 Período de Sesiones en la audiencia temática celebrada el 3 de octubre de 2018, denominada “[Ecuador: Criminalización de jurisdicción indígena](#)”.

³⁶⁷ CIDH, [Audiencia Regional: Criminalización y justicia indígena](#), 10 de mayo de 2019.

³⁶⁸ El Comercio, [Indígenas y campesinos de Cotopaxi protestan por el juzgamiento de Leonidas Iza](#), 9 de septiembre de 2019.

has adopted domestic provisions to receive persons from Venezuela³⁶⁹, the Commission was informed of the negative consequences of those measures. In particular, the IACHR received information on persons being rejected at the border and collective expulsions. The Commission observes that such situations forced many persons in need of protection to enter the country at irregular border crossings; many of them were expelled and returned to the other side of the border crossing. In addition, the Commission notes that those measures unleashed a series of acts of harassment, stigmatization, and episodes of violence by Ecuadorians and media outlets against the Venezuelans.³⁷⁰

255. As regards the **rights of older persons**, according to the National Institute of Statistics and Census (INEC) 7.2% of the population is made up of older adults (1,264,423 personas); it is anticipated that these figures will increase gradually. More than half of this population lives in poverty.³⁷¹ The Commission values the adoption this year of the Organic Law on Older Persons, which regulates the exercise of their rights and constitutional guarantees and includes tax benefits, benefits for transportation and utilities, as well as affordable housing.³⁷²

256. As regards **freedom of expression**, from January to June 2019 Ecuador was in a transition that began with the change in the government of President Lenín Moreno through actions that sought to dismantle a series of mechanisms of repression and control over the press, media outlets, and civil society organizations. Nonetheless, the Office of the Special Rapporteur expressed its concern over the violence against journalists and media outlets, as well as impairments of the right to freedom of expression during the social protests and the state of emergency decreed in October.

EL SALVADOR

- **General considerations**

257. The IACHR welcomes some areas of **progress** in human rights in El Salvador in the course of 2019. Particularly noteworthy is the recognition by the State of citizen security as a priority and the significant decline in violent deaths in the country. It also applauds the technical cooperation with the IACHR for strengthening the capacities of judicial officers for transitional justice, which culminated in three activities on the topic: a high-level roundtable dialogue, a forum on the justice sector, and an open forum for the public at large.³⁷³ In addition, the IACHR recognizes and expresses gratitude for the cooperation provided by the state authorities in preparing for and carrying out the onsite visit to El Salvador December 2 to 4, 2019, with the objective of observing and analyzing the human rights situation in the country.³⁷⁴

258. As regards the **challenges** identified by the IACHR, special mention should be made of the critical situation of persons deprived of liberty; the signing of an agreement that may limit the exercise of the right to seek asylum of persons in need of international protection; and the high levels of violence against women, the various acts of violence committed against persons who self-identify as LGBTI or were perceived

³⁶⁹ Such as the “Framework Agreement for Inter-institutional Cooperation between the Ministry of Foreign Affairs and Human Mobility, the Ministry of Interior, and the Ministry of Economic and Social Inclusion to ensure the adequate management of migratory flows with a focus on the human rights of foreign citizens and of children and adolescents and their families in contexts of human mobility in Ecuador” and the “Comprehensive Plan for Attention and Protection of Rights in the context of the increase in the Venezuelan migratory flow in Ecuador.”

³⁷⁰ IACHR, Press Release No. 047/19, [IACHR Concerned about Ecuador’s New Measures to Address Forced Migration of Venezuelans](#), February 27, 2019.

³⁷¹ El Telégrafo, [Adultos mayores tienen beneficios tributarios](#), May 15, 2019.

³⁷² Republic of Ecuador, Presidency, [Organic Law on Older Adult Persons](#), April 29, 2019.

³⁷³ IACHR, Press Release, [IACHR Completes Successful Forum on Transitional Justice in El Salvador, Reminds the State of the Applicable Inter-American Standards](#), October 25, 2019; IACHR, Press Release [IACHR Completes Successful Forum on Transitional Justice for Salvadoran Justice Sector](#), September 10, 2019; IACHR, Press Release, [IACHR Applauds Successful High-Level Dialogue on Transitional Justice in El Salvador](#), June 10, 2019.

³⁷⁴ IACHR, Press Release [IACHR Launches On-Site Visit to El Salvador](#), December 2, 2019; IACHR, Press Release, [IACHR presents its preliminary observations following its in loco visit to El Salvador](#), December 27, 2019.

as such, and the impunity that surrounds serious human rights violations perpetrated by state agents engaged in citizen security tasks. In addition, the IACHR repeatedly stated its concern over the possible approval of an amnesty law with respect to crimes committed during the internal armed conflict.

259. The State responded to the request for information for the preparation of this chapter.

- **Specific topics**

260. With respect to the cross-cutting issue of the **institutional framework for human rights**, the IACHR was informed that in June 2019 the new Government of El Salvador eliminated the Secretariat for Social Inclusion³⁷⁵, which was responsible for promoting public policies with a human rights approach to promote the inclusion of vulnerable groups of society such as women, children and adolescents, persons with disabilities, older persons, and LGBTI population.³⁷⁶ According to the information from the State, some programs related to the LGBTI community have been taken over by the Ministry of Culture and the Ciudad Mujer project has been passed on to the new Ministry of Local Development.³⁷⁷

261. In terms of **democratic institutional framework**, on February 3, 2019, presidential elections were held for the 2019-2024 terms.³⁷⁸ The candidate elected, with 53.10% of the valid votes, was Nayib Armando Bukele Ortez, who was sworn in as president on June 1, 2019.³⁷⁹

262. On September 6 the Government of El Salvador and the Organization of American States installed the International Commission against Corruption and Impunity in El Salvador (CICIES: Comisión Internacional contra la Corrupción y la Impunidad en El Salvador) for the purpose of supporting, strengthening, and collaborating actively with the Salvadoran institutions entrusted with preventing, investigating, and punishing acts of corruption and related crimes.³⁸⁰

263. In the area of **citizen security**, the Commission has been pleased to see that in the first six months of the new administration the homicide rate has fallen to its lowest levels since the Peace Agreement.³⁸¹ From June to November in all there were 674 fewer homicides than the same period the previous year, with 2,252 violent deaths as of November.³⁸² In a public hearing on “Violence and citizen security in El Salvador,” held during its 174th period of sessions, the IACHR was informed of implementation of the Plan for Territorial Control as the principal strategy for reducing homicides³⁸³; during the onsite visit to the country the State informed the IACHR of the implementation of a Plan for Territorial Control to address this issue. According to what the State reported, that Plan, led directly by the President of the Republic, started up on June 20, 2019, and consists of three phases: (1) primary prevention and visible presence of the National Police and the Armed Forces; (2) rebuilding the social fabric by prosecuting and preventing crime; and (3) modernizing the security

³⁷⁵ La Página. [Nayib Bukele elimina secretarías de Inclusión Social, Transparencia, Gobernabilidad, Técnica y de Vulnerabilidad](#), June 2, 2019.

³⁷⁶ Secretariat for Social Inclusion, [Plan Estratégico Institucional](#), 2015.

³⁷⁷ IACHR, Press Release, [IACHR presents its preliminary observations following its in loco visit to El Salvador](#), December 27, 2019; La Prensa Gráfica, [Bukele creó dos nuevas secretarías y eliminó cinco](#), June 3, 2019.

³⁷⁸ Supreme Electoral Tribunal, [Convocatoria a elección 2019](#), October 3, 2018.

³⁷⁹ La Prensa Gráfica, [TSE declara en firme triunfo de Bukele](#), February 8, 2019; Final vote count 2019. [Resultado de la elección presidencial](#), February 7, 2019; Supreme Electoral Tribunal, [Convocatoria a elección 2019](#), October 3, 2018.

³⁸⁰ OAS, [Government of El Salvador and the Organization of American States \(OAS\) install CICIES](#), September 6, 2019; OAS, [The OAS and El Salvador Create International Commission Against Impunity \(CICIES\)](#), September 20, 2019; OAS, [OAS and El Salvador Sign Agreement to Advance the Creation, Objectives and Competencies of CICIES](#), November 26, 2019.

³⁸¹ IACHR, Press Release, [IACHR presents its preliminary observations following its in loco visit to El Salvador](#), December 27, 2019.

³⁸² National Civilian Police, [Noviembre el tercer mes con menos homicidios desde los Acuerdos de Paz](#), December 1, 2019; La Prensa Gráfica, [El Salvador cierra 2019 con reducción de homicidios superior al 30%, pero seguirá en epidemia](#), December 23, 2019.

³⁸³ La Prensa Gráfica, [PNC deja de compartir información diaria sobre homicidios](#), June 5, 2019.

forces in terms of their tools, infrastructure, and resources. The IACHR notes that the phases of the Plan described by the State include regaining governability of the territories controlled by *maras* or gangs, prevention, and especially rebuilding the social fabric. Civil society organizations have demanded more transparency and participation in the citizen security policy and have criticized the growing use of the Armed Forces in such tasks.³⁸⁴ The IACHR reiterates the international obligations of the State in the area of internal security and in light of established inter-American standards that provide that the participation of the armed forces in security tasks should be extraordinary, subordinated, complementary, regulated, and subject to oversight.

264. In addition, the Commission was struck that from 2013 to 2019 there were only eight convictions of police officers prosecuted for homicide. In this regard, in those cases in which civilians are wounded or killed by police or military forces, and in furtherance of its international obligations, the State must urgently conduct diligent and impartial investigations with the aim of establishing the facts and determining any criminal liability.³⁸⁵

265. Moreover, the Office of the Attorney General of the Republic told the IACHR that 3,030 complaints were reported of persons disappeared as of mid-December 2019, for an average of 10 persons disappeared daily.³⁸⁶ During the onsite visit the IACHR received repeated complaints of victims regarding how the authorities respond when they report the disappearances of their family members, in particular the National Civilian Police and the Office of the Attorney General. The State reported some measures adopted to address this issue. In this regard, the Commission reiterates that impunity not only leaves the victims, their family members, and Salvadoran society in general without truth and without justice, but also drives the repetition of such incidents.

266. As regards the **rights of migrants, asylum-seekers, and refugees**, during the public hearing held during its 174th period of sessions³⁸⁷ the Commission was informed of the situation of Salvadorans forced to displace both internally and to other countries to flee from the high levels of violence in the country. The IACHR received information on compliance with the judgment in Amparo No. 411-17 of the Constitutional Chamber of the Supreme Court, which found that such a situation exists and ordered that measures be adopted to address it; in particular, the applicant organizations stated that a legal and regulatory framework of protection for the victims of forced displacement has yet to be adopted.

267. Moreover, according to information in the public record, the Salvadoran State entered into an agreement with the United States that establishes that those asylum-seekers who, to reach the United States, have crossed through El Salvador without applying for refugee status may be returned to the country to initiate that procedure.³⁸⁸ In addition, this would be achieved by strengthening the capacity of El Salvador to process asylum applications.³⁸⁹ In this regard, the Commission is concerned that this agreement may limit the exercise of the right to apply for asylum of those persons who are in need of international protection, without taking

³⁸⁴ IACHR, Hearing on [Violence and citizen security in El Salvador](#), 174th period of sessions, November 11, 2019.

³⁸⁵ IACHR, Press Release, [IACHR presents its preliminary observations following its in loco visit to El Salvador](#), December 27, 2019.

³⁸⁶ IACHR, Press Release, [IACHR presents its preliminary observations following its in loco visit to El Salvador](#), December 27, 2019.

³⁸⁷ IACHR, Public hearing on [Forced displacement in El Salvador](#), November 12, 2019.

³⁸⁸ Department of Homeland Security, Joint Statement Between the U.S. Government and the Government of El Salvador, September 20, 2019; The Washington Post, [Trump administration reaches deal to send asylum seekers to El Salvador in an effort to deter migrants from entering the United States](#), September 20, 2019.

³⁸⁹ Department of Homeland Security, Joint Statement Between the U.S. Government and the Government of El Salvador, September 20, 2019; The Washington Post, [Trump administration reaches deal to send asylum seekers to El Salvador in an effort to deter migrants from entering the United States](#), September 20, 2019.

into consideration the high levels of violence and crime present in El Salvador that affects both the local population and the victims of forced displacement from other countries.³⁹⁰

268. In the area of the **rights of children and adolescents**, the IACHR observes that the First Chamber for Criminal Matters of the Court of First Instance of San Salvador found itself without jurisdiction to decide a criminal action brought by the Office of the Attorney General against a judge on the charge of “sexual assault on a minor or incapable person” in a case related to a 10-year-old girl. According to the information available, the Court decided that the facts could not be considered a criminal offense (*delito*), but rather “acts contrary to good customs and public decorum,” a misdemeanor (*falta*) punishable only by a fine.³⁹¹ That decision was motivated based on the act being “brief” and “over the clothes.”³⁹² The decision by the criminal court unleashed a series of demonstrations rejecting it, in particular by a movement that defend the rights of women and of children and adolescents in El Salvador who are calling for a review of the decision of the court with a view to considering that touching the sexual organs of children is a criminal offense under Salvadoran legislation.³⁹³ Related to the foregoing, the IACHR is concerned about the large number of cases of sexual violence against girls in the country. According to data from the Office of the Attorney General, in El Salvador 11 complaints are lodged of sexual crimes against girls every day.³⁹⁴

269. As regards **memory, truth, and justice**, the IACHR has observed with concern the drawing up of a new Law on National Reconciliation without the participation of the victims and with provisions that would obstruct the investigation, prosecution, and punishment of the perpetrators of serious human rights violations in the context of the internal armed conflict. In this respect, the IACHR held the hearing “Trials and Amnesty Law in El Salvador” during its 171st period of sessions, and requested information from the State under the powers established in Article 41 of the American Convention on Human Rights, without having received any response.³⁹⁵ In addition, the IACHR repeatedly called on the Salvadoran State to refrain from adopting any initiative that would violate the victims’ rights to the truth, justice, and reparation, and to leave such serious crimes in impunity.³⁹⁶ The IACHR has valued the fact that as of December 2019, the Office of the Attorney General of the Republic has opened 180 cases referring to the period of the armed conflict, yet it takes note of the victims’ demand for greater participation and more progress in those cases.³⁹⁷ In addition, the Commission has stated its concern over the lack of access to the archives of the Ministry of Defense and, in particular, its impact on the investigation of the crimes committed during the armed conflict.³⁹⁸ While the State has announced the creation of an inter-institutional commission to safeguard and regulate access to those materials, to date there has been no information on its effective implementation.³⁹⁹

³⁹⁰ IACHR, Press Release, [IACHR Expresses Deep Concern about the Situation of Migrants and Refugees in the United States, Mexico, and Central America](#), July 23, 2019.

³⁹¹ BBC, [El Salvador: el polémico caso del juez que tocó los genitales a una menor y que la justicia no considera delito](#), November 5, 2019.

³⁹² El Faro, [Cámara descarta delito porque el tocamiento a la niña fue “breve” y “encima de la ropa.”](#) November 6, 2019.

³⁹³ Univisión Noticias, [Crece la indignación en El Salvador por el fallo que considera que manosear a una niña no es delito](#), November 10, 2019.

³⁹⁴ El Espectador, [Alto nivel de violencia sexual contra niñas en El Salvador, una preocupación para la ONU](#), October 9, 2019.

³⁹⁵ IACHR, Hearing on [Trials and Amnesty Law in El Salvador](#), 171st period of sessions, February 14, 2019.

³⁹⁶ IACHR, Press Release, [IACHR Concerned about Bill that Would Leave Unpunished Serious Human Rights Violations of El Salvador’s Past](#), April 25, 2019; IACHR, Press Release, [IACHR notes with concern the passage of the National Reconciliation Bill in El Salvador, which contains provisions contrary to human rights](#), May 21, 2019; IACHR, Press Release, [IACHR presents its preliminary observations following its in loco visit to El Salvador](#), December 27, 2019.

³⁹⁷ IACHR, Hearing [Trials and Amnesty Law in El Salvador](#), 171st period of sessions, February 14, 2019; Press Release, [IACHR presents its preliminary observations following its in loco visit to El Salvador](#), December 27, 2019; IACHR, Hearing on [Right to truth and historical impunity in the context of the international armed conflict in El Salvador](#), 173rd period of sessions, September 26, 2019.

³⁹⁸ Press Release, [IACHR presents its preliminary observations following its in loco visit to El Salvador](#), December 27, 2019.

³⁹⁹ IACHR, Hearing on [Trial and Amnesty Law in El Salvador](#), 171st period of sessions, February 14, 2019; IACHR, Hearing on [Right to the truth and historical impunity in the context of the internal armed conflict in El Salvador](#), 173rd period of sessions, September 26, 2019; IACHR, Press Release, [IACHR presents its preliminary observations following its in loco visit to El Salvador](#), December 27, 2019;

270. In addition, the Commission took note of the gains in the investigation and reparation for the serious violations of human rights in the case of the Massacres of El Mozote and surrounding areas.⁴⁰⁰ Nonetheless, in relation to the program established to benefit the victims of the armed conflict the IACHR has been informed that it has been on hold since the elimination of the Secretariat for Social Inclusion, in June 2019, with a negative impact on approximately 5,000 persons.⁴⁰¹

271. As for the situation of **persons deprived of liberty**, the IACHR values the effort made by the State to separate defendants in criminal cases from convicts. The IACHR has expressed concern over the extraordinary measures in the population deprived of liberty that were permanently included in the 2018 Law on Prisons.⁴⁰² The Commission has indicated that those measures generate serious violations of the rights of persons deprived of liberty, in particular due to their prolonged and indefinite isolation in inhuman conditions, the suspension of the regime of visits, and the obstacles it poses to due process.⁴⁰³ El Salvador is the second leading country worldwide in terms of the incarceration rate, with 604 prisoners per 100,000 population. In light of the large number of persons detained the IACHR observes with concern that to date there are only approximately 15 judges for Prison Oversight and Enforcement of Sentences to handle more than 38,000 cases. In addition, while the average overcrowding rate in the prisons is 142%, the Commission is struck to note that some prisons have as much as 600% overcrowding.

272. The Commission is especially concerned by the deficient conditions of detention observed in the prisons visited. As indicated in its preliminary observations, in addition to the overcrowding observed, these centers are characterized by deficient infrastructure, insalubrious conditions, the absence of programs particularly for reinsertion in society, and the use of maximum security prisons, which hold approximately 16,000 persons, insufficient medical care, and scant and inadequate access to water. The State reported on a series of programs that seek to help with rehabilitation and resocialization of the population deprived of liberty being implemented in the prisons – excluding the security and maximum security prisons. The IACHR encourages these initiatives and their gradual replication in all centers where persons are deprived of liberty. Finally, during the visit the Commission was struck by the isolation in which persons deprived of liberty are held, and which translates into the violation of these persons' minimum guarantees, including the lack of access to their families, to assistance, and to measures for social reinsertion. According to the information received, there is no contact with the outside world for 100% of the population deprived of liberty. The Commission makes an appeal to the State to strike a balance between the security measures imposed and the budgetary shortcomings observed in the prisons when it comes to guaranteeing human rights, providing sufficient medical services, and hiring more guards, to comply with the relevant inter-American standards. In addition, the IACHR highlights the importance of establishing a criminal justice policy aimed at using deprivation of liberty as a measure of last resort by applying alternative measures and granting minimum guarantees to persons deprived of liberty.

273. In relation to **women's rights**, the Commission learned of the suicide of 32 pregnant women and adolescents who were living in poverty and had experienced acts of violence.⁴⁰⁴ On this point, in July 2019, the IACHR requested information from the State as per Article 41 of the American Convention on Human Rights. In its response to the Commission the State highlighted the various measures adopted to address this issue,

⁴⁰⁰ IACHR, Press Release, [IACHR presents its preliminary observations following its in loco visit to El Salvador](#), December 27, 2019; El Salvador.com, [Militares son procesados de delito de lesa humanidad por El Mozote](#), July 19, 2019; CEJIL, [Registro de víctimas de El Mozote representa avance en la justicia, verdad y reparación en El Salvador](#), February 15, 2019.

⁴⁰¹ IACHR, Hearing on [Right to the truth and historical impunity in the context of the internal armed conflict in El Salvador](#), 173rd period of sessions, September 26, 2019; El Faro, [Cancillería: "El programa de reparación a víctimas de la guerra desapareció"](#), September 24, 2019.

⁴⁰² Press Release, [IACHR presents its preliminary observations following its in loco visit to El Salvador](#), December 27, 2019.

⁴⁰³ Press Release, [IACHR presents its preliminary observations following its in loco visit to El Salvador](#), December 27, 2019.

⁴⁰⁴ La Prensa Gráfica, [32 mujeres y adolescentes se suicidaron en El Salvador estando embarazadas](#), May 30, 2019; El Salvador, [Índice de suicidios en embarazadas es alarmante, según Fondo de Población](#), May 30, 2019.

including the implementation of the *National Intersectoral Strategy for the Prevention of Pregnancy in Girls and Adolescents 2017-2027*.⁴⁰⁵

274. The Commission also observed that in 2019 violence against women continued to be a matter of concern. In this respect, up to May 2019 there were a total of 120 cases of women murdered in the country on record. According to the National Police, this would be 49 cases less than the figures for 2018.⁴⁰⁶ Despite this progress, the Commission considers that this number is highly worrisome. The Commission learned of the assassination of Camila Díaz Córdoba, a trans woman who was beaten by three police agents after her arrest and died three days later due to multiple lesions.⁴⁰⁷ The Commission requested information from the State on this matter, in keeping with Article 41 of the Convention. In its response to the Commission the State reported that it was undertaking the corresponding investigations to punish those who turn out to be responsible.⁴⁰⁸

275. The Commission further reiterates its concern over the criminalization of certain conduct that has been classified as abortion. While the Code establishes penalties of up to 12 years for the crime of abortion, the Commission has learned that at least 74 women who have suffered complications or obstetric emergencies have been convicted of aggravated homicide and sentenced to up to 40 years behind bars, based on suspicion that they inducted an abortion.

276. In addition, the Commission has received information about different acts of violence against persons who self-identify as **LGBTI** or who were perceived as such.⁴⁰⁹ In this respect, the IACHR has taken note of the information provided by the State as a response to the request sent pursuant to Article 41 of the American Convention.⁴¹⁰ In particular, the State pointed to specialized efforts to investigate and prosecute acts of violence committed against vulnerable persons, including those who belong to the LGBTI population, by the Office of the Attorney General and its National Bureau for Women, Children, Adolescents, LGBTI Population, and Other Vulnerable Groups. In addition, the State reported the existence of protocols for care and activities to train public servants, as well as the process of creating the Unit on Sexual Diversity within the Ministry of Culture, whose purpose, among other things, will be to raise awareness and provide guidance regarding the inclusion of LGBTI persons, to replace some of the programs that had been entrusted to the Secretariat for Social Inclusion.

277. During its visit the IACHR received information on a series of concerns in the area of guarantees for the exercise of **freedom of expression**. Among the concerns, several persons mentioned stigmatizing speech on social networks against human rights defenders, media outlets, and journalists. These attacks on social networks are especially virulent when directed against women human rights defenders and women journalists, based on gender stereotypes. According to the information received, the situation got worse after state authorities targeted specific persons were said to be targeted by state authorities. While it is legitimate for public officials to make criticisms, corrections, or objections with respect to specific reports in the media and social organizations, they have a special duty of care not to generate situations of risk. In addition, the IACHR received information from various organizations and media outlets regarding cases in which restrictions are alleged on access to public information, such as further classification of information as

⁴⁰⁵ Note from the Permanent Mission of El Salvador to the OAS, MPOEA-OEA-79/2019 of October 9, 2019.

⁴⁰⁶ El Salvador, [En El Salvador han sido asesinadas 120 mujeres en lo que va de 2019](#), May 14, 2019; EFE, [Al menos 120 mujeres asesinadas en El Salvador en 2019, 49 menos que en 2018](#), May 14, 2019.

⁴⁰⁷ IM Defensoras, [Sororidad con Camila Díaz Córdoba, mujer transgénero asesinada por la policía en El Salvador](#), July 5, 2019.

⁴⁰⁸ Note from the Permanent Mission of El Salvador to the OAS, MPOEA-OEA-78/2019 of October 1, 2019.

⁴⁰⁹ Press Release, [IACHR presents its preliminary observations following its in loco visit to El Salvador](#), December 27, 2019; NBC News, [Trans woman killed in El Salvador after U.S. deportation, rights group says](#), February 21, 2019; Washington Blade, [Tres policías de El Salvador detenidos por el asesinato de mujer trans deportada de EEUU](#), July 9, 2019; Agencia Presentes, [Crímenes de odio siguen impunes en El Salvador: exigen investigarlos](#), November 4, 2019; Agencia Presentes, [Asesinaron a otra trans en El Salvador: 3 transfemicidios en menos de un mes](#), November 19, 2019; France 24, [Body of missing Salvadoran trans activist found](#), October 11, 2019; El Salvador.com, [Mujer trans fue asesinada y luego lanzada de vehículo en el bulevar Los Héroes](#), October 28, 2019.

⁴¹⁰ Response of the State of El Salvador to the request for information under Article 41(d) of the ACHR, CIDH/SE/Art.41/8-2019/43.

confidential by various agencies related to issues of security, the environment, spending, and migration agreements. Furthermore, several media outlets denounced restrictions on access to governmental press conferences and distribution of official advertising that discriminates against those media outlets that have published criticisms of the government.

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- **General considerations**

278. With respect to **progress**, the IACHR recognizes the long democratic tradition of the United States, its commitment to the rule of law, and the solid system of democratic checks and balances. In particular, the IACHR highlights the extension of Temporary Protected Status to the nationals of certain countries, and the recognition of lapsed Venezuelan passports as valid. In addition, gains were observed in the protection of the rights of LGBTI persons and of women's sexual and reproductive rights.

279. As regards the **challenges**, of special concern are the persistence of mass shootings and the continued use of the death penalty and its resumption at the federal level. In addition, the IACHR is concerned about the immigration policies adopted by the government that may obstruct the right of persons to seek asylum and remain in the United States, and the criminalization of those who defend migrants, asylum-seekers, and refugees. In addition, the Commission notes violence and discrimination to the detriment of trans persons, legislation that continues to provide for the corporal punishment of children, and obstacles to the freedom of expression.

280. The State did not respond to the request for information sent for preparing this chapter.

- **Specific topics**

281. Regarding the cross-cutting **institutionality of human rights** theme, it is to be pointed out that the State Department has an office specializing in democracy, human rights, and labor issues, as well as other matters.

282. Regarding the **democratic institutional framework**, the Commission has monitored the presidential campaign leading to the 2020 elections. The Commission takes note of the participants in the presidential primaries and highlights the record number of five women among the candidates running for the Democratic nomination.⁴¹¹ The Commission also took note of the impeachment proceeding against the president of the United States, the fourth time that such a proceeding has been activated.⁴¹²

283. In the area of **citizen security**, the Commission laments the impact of the use of firearms in the United States and the persistence of mass shootings in 2019. According to information in the public record, as of mid-November 34,365 persons died due to gunshot wounds – including homicides, suicides, and accidents – and 25,929 were wounded.⁴¹³ In addition, there were 45 school shootings⁴¹⁴ and 369 mass shootings.⁴¹⁵ While these figures represent a reduction in the number of school shootings, they reflect a larger number of victims than in 2018. As a result of school shootings 408 persons lost their lives and 1,477 were injured.⁴¹⁶

⁴¹¹ El País, [Los candidatos demócratas de las elecciones presidenciales de 2020](#), November 4, 2019. See also: BBC, [Elecciones 2020: quiénes son Bill Weld y Joe Walsh, los dos republicanos que desafían la nominación de Trump para la reelección](#), August 27, 2019. BBC, [US election 2020: Five charts on the Democratic race to take on Trump](#), November 5, 2019.

⁴¹² CNN, [Trump, el tercer presidente de la historia de Estados Unidos en enfrentar un juicio político](#), December 18, 2019.

⁴¹³ CBS News, [There have been more mass shootings than days this year](#), November 15, 2019.

⁴¹⁴ CNN, [In 46 weeks this year, there have been 45 school shootings](#), November 19, 2019.

⁴¹⁵ CBS News, [There have been more mass shootings than days this year](#), November 15, 2019.

⁴¹⁶ Insider, [There have been 366 mass shootings in the US so far in 2019 — here's the full list](#), November 14, 2019.

284. In a press release the IACHR condemned the mass shootings that occurred in El Paso, Texas; Dayton, Ohio; Chicago, Illinois; and Memphis, Tennessee, in which at least 34 persons were killed and more than 50 were wounded. The Commission also condemned all hate speech, racism, and intolerance, and expressed its concern that, according to information in the public record, attitudes rejecting immigration and the Hispanic population in the United States motivated the assailant in the El Paso massacre.⁴¹⁷ In addition, the IACHR held a public hearing on the impact of firearms in the United States in which the requesting organizations highlighted the disproportionate impact of their use on children and adolescents, women, and Afrodescendent persons; and stated their concern over the lack of laws and public policies for prevention and for treating survivors and victims' family members.⁴¹⁸

285. As for the rights of **persons deprived of liberty**, the Commission requested information from the United States pursuant to Article 18(d) of its Statute on the situation of Tammy Jackson, a disabled woman who gave birth to her daughter at the North Broward Bureau detention facility, in Broward County, Florida.⁴¹⁹ According to information in the public record, from the moment Mrs. Jackson entered the detention center the authorities had been notified of her disability and her pregnancy. According to the county's public defender, on April 10, 2019, when Mrs. Jackson was in solitary confinement she sought medical assistance because she began to have contractions; almost seven hours later she gave birth to a baby girl, without medical assistance.⁴²⁰ To date the IACHR has not received a response to its request for information.

286. On another matter, the Commission welcomes the decision by the state of California prohibiting private prisons. According to information in the public record, California adopted regulation AB 32 by which over eight years it will gradually eliminate the use of private prisons, putting an end to a practice on which the state has depended for three decades to manage the excess in the number of prisoners.⁴²¹

287. As regards the application of the **death penalty**, the Commission has continued monitoring its use over the years in the United States, a country that continues to apply it.⁴²² In a press release the IACHR saluted the moratorium on executions in California, issued in March, which benefited 737 persons on death row.⁴²³ In addition, the Commission welcomed the abolition of the death penalty in the state of New Hampshire in May 2019.⁴²⁴

288. In a case emblematic of the continuing use of the death penalty, the Commission, in a press release, condemned the execution of Russell Bucklew in Missouri on October 1, 2019; he was a beneficiary of precautionary measures issued in 2014, by which the State was asked to refrain from executing him until the Commission ruled on the merits of his individual petition.⁴²⁵ In this respect, the IACHR had adopted Admissibility Report No. 54/14 and Merits Report No. 71/18, in which it concluded that the United States was responsible for violating the human rights of Mr. Bucklew and recommended that his penalty be commuted, that he be transferred from death row, and that it be guaranteed that his conditions of detention would be

⁴¹⁷ IACHR, Press Release, No. 193/19, [IACHR condemns mass shootings and all discourse or form of hate, racism and intolerance in the United States of America](#), August 6, 2019.

⁴¹⁸ IACHR, [Public hearing on "The impact of firearms in the United States of America."](#) November 12, 2019.

⁴¹⁹ IACHR, Letter requesting information, June 10, 2019, Archive of the IACHR.

⁴²⁰ The Washington Post, [A pregnant inmate came to term in jail. Lawyers say she was forced to give birth there — alone](#), May 6, 2019.

⁴²¹ San Francisco Chronicle, [California bans private prisons and immigration detention centers](#), October 11, 2019.

⁴²² IACHR, [The Death Penalty in the Inter-American Human Rights System: From Restrictions to Abolition](#), OEA/Ser.L/V/II. Doc. 68, December 31, 2011.

⁴²³ IACHR, Press Release, No. 70/19, [IACHR Welcomes the Moratorium on Executions of Death Row Inmates in the US State of California](#), March 20, 2019.

⁴²⁴ IACHR, Press Release, No. 152/19, [IACHR Welcomes Abolition of Death Penalty in New Hampshire, United States](#), June 17, 2019.

⁴²⁵ IACHR, Press Release, No. 249/19, [IACHR Condemns Execution of Russell Bucklew in Missouri, United States of America](#), October 7, 2019.

compatible with human dignity. In addition, in a press release the Commission urged the United States to suspend his execution.⁴²⁶ And in a public hearing held during its 173rd period of sessions, the IACHR issued a new urgent appeal to the State to carry out its recommendations and commute Mr. Bucklew's sentence once it learned of his poor health.⁴²⁷

289. In addition, the Commission expresses its profound concern over the resumption of the death penalty at the federal level in the United States. According to available information, in July the attorney general of the United States announced that the death penalty will be considered at the federal level after 16 years during which executions have not been carried out.⁴²⁸ At present there are 62 persons deprived of liberty on death row in federal facilities.⁴²⁹ In addition, the attorney general announced that the Department of Justice set the date for the executions of five persons deprived of liberty to be carried out in December 2019 and January 2020.⁴³⁰ The IACHR notes that one of the persons to be executed, Lezmond Mitchell, is a beneficiary of precautionary measures granted in July de 2017⁴³¹ in the context of which the Commission asked the United States to take steps to preserve his life awaiting an investigation into the allegations contained in his petition alleging violation of rights recognized in the American Declaration of the Rights and Duties of Man. In this respect, the IACHR welcomes the decision by the federal Judge Tanya S. Chutkan (District of Columbia), suspending the executions of four of the five persons mentioned. In the case of Mr. Lezmond Mitchell, beneficiary of the above-mentioned precautionary measures, the IACHR welcomes the suspension of his execution in a separate case.⁴³²

290. Finally, in a press release the Commission urged the United States to carry out the recommendations issued in Merits Report No. 24/17 in favor of Argentine citizen Víctor Saldaño, sentenced to death in Texas. In particular, the IACHR made reference to the recommendation for effective reparation, including a review of his trial and conviction; commuting his sentence; transferring him from death row; that the State ensure that his conditions of detention are compatible with human dignity; and that he be provided proper mental health care. The Commission notes with concern the decision of the Supreme Court of the United States in which it declined to review Mr. Saldaño's case.⁴³³

291. As regards the **rights of migrants, asylum-seekers, and refugees**, the Commission has closely followed their situation in 2019. In a press release the IACHR highlighted the importance that the United States attaches to the actions that the states of the region have been making jointly in implementing the Comprehensive Regional Protection and Solutions Framework, aimed at developing a comprehensive coordinated response for refugees and to foster greater regional cooperation to address the challenges posed by forced displacement.⁴³⁴ In addition, the Commission highlights the cooperation of the United States in expanding its country quotas in the Protection Transfer Arrangement (PTA).⁴³⁵ The Commission welcomes the decision adopted by the Government of the United States extending the validity of documents associated with the applicability of Temporary Protected Status (TPS) until January 4, 2021 for migrants from El Salvador,

⁴²⁶ IACHR, Press Release, No. 211/19, [IACHR Urges the United States to Stay the Execution of Russell Bucklew](#), August 23, 2019.

⁴²⁷ IACHR, Public hearing on [The Russell Bucklew case in the United States of America](#), September 24, 2019.

⁴²⁸ New York Times, [U.S. to Resume Capital Punishment for Federal Inmates on Death Row](#), July 25, 2019.

⁴²⁹ New York Times, [U.S. to Resume Capital Punishment for Federal Inmates on Death Row](#), July 25, 2019.

⁴³⁰ New York Times, [U.S. to Resume Capital Punishment for Federal Inmates on Death Row](#), July 25, 2019.

⁴³¹ IACHR, Precautionary Measures 250/17, Resolution No. 21/17 – Lezmond Mitchell, United States, July 2, 2017.

⁴³² The Washington Post, [Federal judge blocks Trump administration's plans to resume executions](#), November 21, 2019. See also, The Indiana Lawyer, [Suit over federal executions likely headed back to SCOTUS](#), January 22, 2020.

⁴³³ La Nación, [La Corte de EE.UU rechazó tomar el caso Saldaño y cerró los caminos para evitar la ejecución](#), November 18, 2019. See also, La Nación, [¿Qué hizo Víctor Saldaño cuando se enteró de que no revisarán su sentencia de muerte?](#), December 3, 2019

⁴³⁴ IACHR, Press Release, No. 180/19, [IACHR Expresses Deep Concern about the Situation of Migrants and Refugees in the United States, Mexico, and Central America](#), July 23, 2019.

⁴³⁵ UNHCR, [Comprehensive Regional Protection and Solutions Framework](#), 2019.

Honduras, Nicaragua, and Haiti, in particular work permits for the citizens of those countries.⁴³⁶ As for the population of Venezuelan migrants, the Commission welcomes the decision adopted in the United States that extends the validity of Venezuelan passports for an additional five years beyond the expiration date of their passports, or the date of expiration of the extension, recognizing their validity for entering the United States and for showing one's identity.⁴³⁷

292. The IACHR observes with concern the various actions and policies adopted by the United States in 2019 to prevent migrants and asylum-seekers from being able to obtain international protection in the country, as well as the actions to deter them from trying to do so. These include primarily their detention and expulsion; the militarization and externalization of the borders; the signing of agreements with countries of the region that may limit the right of persons to apply for asylum; and the criminalization of those who defend the human rights of migrants, asylum-seekers, and refugees.

293. In particular, in January the Migrant Protection Protocols (MPP) were published; they are also known as the "Stay in Mexico" policy, pursuant to which persons who, irregularly or without the appropriate documentation, enter or may be admitted in the United States from Mexico, may be returned to Mexico to await a decision on their immigration or refugee proceeding.⁴³⁸ According to information received by the IACHR, the application of this policy has in some cases entailed the separation of families, as the mothers and/or fathers have been required to stay in Mexico while their children are sent to the Office of Refugee Resettlement (ORR) of the United States.⁴³⁹

294. According to information in the public record, approximately 50,000 migrants, the majority from Honduras, Guatemala, and El Salvador, have been returned to Mexico under the MPP; of these, 16,000 are children and adolescents, 4,300 of them are under 5 years of age, and 481 under 1 year.⁴⁴⁰ In a press release the Commission expressed its concern about the joint implementation, with Mexico, of immigration policies and practices that have a negative impact on the human rights of migrants and asylum-seekers.⁴⁴¹ As a result of the agreements, the borders were militarized, as 15,000 Mexican troops were deployed to the border with the United States.⁴⁴² In this respect, the Commission is concerned about the situation of the persons returned to Mexico, who must wait at the border for the applications to be processed, and who, in light of their special situation of vulnerability, are exposed to innumerable risks, including extortion, kidnapping, and situations of violence the protagonists of which are local gangs and cartels. According to public information, migrants and asylum-seekers are often victims of kidnappers who pass themselves off as *polleros* or *coyotes* (guides for crossing the border) and extortionists pretending to be immigration officials.⁴⁴³

295. Similarly, the United States signed agreements with Guatemala, Honduras, and El Salvador whose purpose is to encourage persons to apply for asylum in the countries they pass through on their way to the United States. The first of these establishes that the persons who cross through Guatemala may not apply for asylum in the United States, and those who reach the U.S. border to apply for asylum may be returned to Guatemala or their countries of origin.⁴⁴⁴ The IACHR, in a press release, expressed its concern over the

⁴³⁶ U.S. Citizenship and Immigration Services, [Temporary Protected Status](#), November 4, 2019.

⁴³⁷ U.S. Department of State, Bureau of Consular Affairs, [Venezuela, Passport Validity Extensions](#), June 7, 2017.

⁴³⁸ Homeland Security, [Migrant Protection Protocols](#), January 24, 2019.

⁴³⁹ IACHR, Press Release, No. 180/19, [IACHR Expresses Deep Concern about the Situation of Migrants and Refugees in the United States, Mexico, and Central America](#), July 23, 2019.

⁴⁴⁰ Reuters, [Exclusive: U.S. migrant policy sends thousands of children, including babies, back to Mexico](#), October 11, 2019.

⁴⁴¹ IACHR, Press Release, No. 180/19, [IACHR Expresses Deep Concern about the Situation of Migrants and Refugees in the United States, Mexico, and Central America](#), July 23, 2019.

⁴⁴² DW, [México y EE. UU. revisan acuerdo para frenar la migración irregular](#), September 10, 2019.

⁴⁴³ Los Angeles Times, [Asylum seekers targeted by kidnappers, extortionists and traffickers while waiting in Mexico](#), July 29, 2019.

⁴⁴⁴ The New York Times, [The U.S. and Guatemala Reached an Asylum Deal: Here's What It Means](#), July 28, 2019.

agreement given that it could expose migrants and asylum-seekers to greater risks than those that originally led them to leave their countries.⁴⁴⁵ Moreover, the agreement entered into by the United States and Honduras allows the return to Honduras of persons seeking refugee status who, to reach the United States, went through Honduras without applying for asylum there.⁴⁴⁶ Finally, the agreement entered into by the United States and El Salvador establishes that by strengthening the capacity of El Salvador to process asylum applications, those asylum-seekers who went through El Salvador to reach the United States, without applying for asylum while there, may be returned to El Salvador to begin the procedure.⁴⁴⁷

296. At the same time, the United States continued its efforts to deter migration by externalizing its borders, supplementing the agreements with an interim regulation that establishes that those persons who enter the United States across the southern border after failing to seek protection in a third country through which they passed on their way to the United States will not be eligible for asylum – with limited exceptions.⁴⁴⁸ The IACHR expressed its deep concern in the face of this situation, given that it places the rights of migrants and asylum-seekers at risk, especially their rights to apply for and receive asylum, *non-refoulement*, freedom of movement, non-discrimination, and special protection for families and children. In addition, during a regional hearing held in its 173 period of sessions, the IACHR was informed of other changes in U.S. immigration policy related to interviews by border patrol agents, the expansion of summary deportations, and the insufficiency of U.S. personnel to address this unprecedented crisis.⁴⁴⁹

297. Moreover, in a press release the Commission underscored its concern in the face of the development and adoption of a plan that authorizes taking DNA samples from migrants who enter U.S. territory to compile a national data base of criminal profiles.⁴⁵⁰

298. Similarly, the IACHR observes with concern the reduction in the number of refugees admitted into the United States. In 2018 the government decided to limit the total to 30,000, this being one of the lowest levels since the refugee program was first instituted. Nonetheless, the number was further reduced in 2019.⁴⁵¹ According to the Presidential Determination on Refugee Admissions for Fiscal Year 2020, next year 18,000 refugees will be admitted, 12,000 fewer than in 2018, and a fraction of the 110,000 refugees authorized to enter the country in 2016.⁴⁵² Even so, the United States has given assurances that it will continue contributing economically to support the response to the global crisis.⁴⁵³

299. The Commission also requested information from the United States pursuant to Article 18(d) of its Statute in relation to information available regarding cases of sexual abuse to the detriment of children and adolescents who are detained that occur at the southern border, and it inquired into the measures adopted by the State to address this situation.⁴⁵⁴ On May 6, 2019, the response to that request for information concerning reports of sexual abuse against detained migrant children, including rape and forced pregnancy, was received from the United States. In the response it indicated that the vast majority of the reports concern

⁴⁴⁵ IACHR, Press Release, No. 180/19, [IACHR Expresses Deep Concern about the Situation of Migrants and Refugees in the United States, Mexico, and Central America](#), July 23, 2019.

⁴⁴⁶ BBC, [Crisis migratoria: Honduras acepta recibir a solicitantes de asilo deportados por EE.UU.](#), September 26, 2019.

⁴⁴⁷ The Washington Post, [Trump administration reaches deal to send asylum seekers to El Salvador in an effort to deter migrants from entering the United States](#), September 20, 2019.

⁴⁴⁸ IACHR, Press Release, No. 180/19, [IACHR Expresses Deep Concern about the Situation of Migrants and Refugees in the United States, Mexico, and Central America](#), July 23, 2019.

⁴⁴⁹ IACHR, Public hearing on [Limitations on access to asylum and refuge in the United States](#), September 24, 2019.

⁴⁵⁰ IACHR, Press Release, No. 279/19, [IACHR expresses concern over migrant DNA collection and policies restricting the mobility of migrant persons in the United States](#), November 1, 2019.

⁴⁵¹ Los Angeles Times, [EE.UU reducirá drásticamente el número de refugiados que acepta a 18.000 el próximo año](#), September 28 2019.

⁴⁵² The New York Times, [Trump Slashes Refugee Cap to 18,000. Curtailing U.S. Role as Haven](#), September 26, 2019.

⁴⁵³ U. S. Department of State, [Presidential Determination on Refugee Admissions for Fiscal Year 2020](#), November 2, 2019.

⁴⁵⁴ IACHR, Letter requesting information, April 16, 2019, Archive of the IACHR.

“inappropriate sexual conduct” involving only unaccompanied migrant children (as victims and victimizers), situations which the facilities can often resolve; and that in only a minority of the cases are adults involved. In addition, the State detailed the actions taken in response to reports of abuse to protect the victims during the investigation process and in their immigration proceedings, which include legal representation and translators; the measures adopted to investigate the reports; the measures taken to prevent sexual abuse; and how migrant children can lodge complaints.⁴⁵⁵

300. In addition, at a public hearing held during its 173rd period of sessions the IACHR received information on the situation of children and adolescents in the United States, Central America, and Mexico in which it indicated that the increase in immigration flows in the region is due primarily to the large number of persons fleeing from violence and extreme poverty. The civil society organizations noted the importance of full protection for the rights of children and adolescents, the responsibility of the national systems for protecting them, and the principle of *non-refoulement*. The organizations underscored the need for a shared international response and proposed the development of a transnational mechanism for protecting the rights of migrant children and adolescents.⁴⁵⁶

301. In the context of its working visit to the southern border of the United States from August 19 to 23, 2019, the Commission obtained relevant information on the conditions of reception at the border, access to international protection and asylum procedures, the conditions of immigration detention, immigration and asylum procedures, and the application of procedural guarantees and judicial protection. According to the information provided by Customs and Border Protection (CBP), the number of detentions by the Border Patrol along the southern of the United States increased 91.7%; of the 760,370 persons detained, 69,157 are unaccompanied children or adolescents, and 432,838 are persons who entered in family units. As for the rejections at that same border, CBP reported that from January to July 2019 in all 102,415 persons had been rejected.

302. In the wake of the immigration policies implemented in the United States, the Commission identified the following as the main impairments of rights: (i) the imposition of restrictions on available administrative and judicial mechanisms; (ii) a drastic increase in the use of immigration detention; (iii) the enforcement of expedited deportation; and (iv) the forced return of persons to the Mexican side of the border, even when they have immigration procedures in the United States. In addition, the IACHR was informed of the use of the metering system, which involves establishing of daily quotas for receiving asylum applications at ports of entry at the southern border; and the barriers that asylum-seekers face during the procedure, such as the difficulty attending an interview, the insufficient number of translators and interpreters, which mainly affects indigenous persons.⁴⁵⁷

303. As regards immigration detention, during the working visit the Commission received reports on the unwarranted prolongation of detention; negligent medical care; insufficient and inadequate food; barriers to phone and Internet communication; lack of contact with family members; lack of access to legal assistance; the lodging of migrants in processing centers known as “freezers” (“*hieleras*”) and characterized by low temperatures; discriminatory and abusive treatment, including physical and psychological violence at the detention centers; including pregnant mothers in the MPP program; and the lack of specialized medical care and provision of special sanitary elements for women. At the same time, the IACHR welcomes the decision by the state of California that prohibits private detention centers for migrants.⁴⁵⁸

⁴⁵⁵ United States Department of State, United States Permanent Mission to the Organization of American States, Complaints of Sexual Abuse by Detained Migrant Children, Request for Information (Article 18 – IACHR Statute), CIDH/SE/Art.18/4-2019/21, Response of the United States, May 6, 2019. Archive of the IACHR.

⁴⁵⁶ IACHR, Public hearing on [Children and adolescents in Central America, Mexico, and the United States of America](#), September 26, 2019.

⁴⁵⁷ IACHR, Press Release, No. 228/19, [IACHR conducted visit to the United States’ Southern Border](#), September 16, 2019.

⁴⁵⁸ San Francisco Chronicle, [California bans private prisons and immigration detention centers](#), October 11, 2019.

304. As regards the Nicaraguan migrant population, the Commission requested information from the United States pursuant to Article 18(d) of its Statute since, according to information provided by civil society organizations, many asylum-seekers were detained and deported despite having applied for refugee status.⁴⁵⁹ On August 19 the response to the request for information was received from the United States; it reported that as of June 29, 2019 there were 1,738 Nicaraguan citizens in detention. In addition, it indicated the measures the United States is adopting to ensure that the conditions of detention are in line with the relevant international standards, and to guarantee the right to due process for asylum-seekers; the mechanisms established to identify persons in need of international protection; the number of asylum applications lodged by Nicaraguans since April 18, 2018 and the number granted, from which it appears that approximately 10% of the applications have been granted; and that 1,497 persons of Nicaraguan nationality were deported from April 18, 2018 to June 2019.⁴⁶⁰ Moreover, in the context of its visit to Miami June 17 and 18, 2019, the Commission learned of the problems facing Nicaraguans in the United States associated with the procedures to apply for refugee status or that they face due to immigration infractions, such as the fact of being detained for long periods and with the possibility of being returned to Nicaragua, based on charges of having crossed the border unlawfully. The IACHR was also informed of the lack of legal assistance and adequate translation during those procedures.⁴⁶¹

305. As regards the rights of human rights defenders, asylum seekers, and refugees, the IACHR, through a press release, expressed its concern over measures aimed at criminalizing them adopted by the United States and Mexico, as well as the harassment those persons suffer as a result of their work, especially along the U.S.-Mexico border.⁴⁶² In this regard, the Commission observes with concern that at least eight volunteers from “No More Deaths,” an organization that has provided humanitarian aid to migrants in Arizona for the last 15 years, are being prosecuted in federal court for engaging in their profession. In particular, the Commission has followed the case of Scott Warren, a university professor and member of “No More Deaths”; he was arrested and prosecuted for offering water, food, clean clothes, and a bed for sleeping to migrants in Ajo, Arizona. The IACHR welcomes the jury verdict finding Mr. Warren not guilty on all counts.⁴⁶³

306. As regards the rights of children and adolescents, in two press releases the IACHR expressed its profound concern over the deaths of migrant children from Guatemala and El Salvador.⁴⁶⁴ In January the Commission expressed its concern over the deaths of two Guatemalan migrant children, Jakelin Caal Maquín and Felipe Gómez Alonzo⁴⁶⁵; later came the deaths of two more Guatemalan children, Juan de León Gutiérrez and Carlos Gregorio Hernández Vásquez; and the death of a 10-year-old girl from El Salvador. All of these deaths occurred while the children were in the custody of the authorities of the United States. The Commission also received information on the death of Óscar Alberto Martínez Ramírez and his daughter Valeria, 23 months, from El Salvador, who drowned while trying to cross the Rio Grande to reach the United States.⁴⁶⁶

⁴⁵⁹ IACHR, Letter requesting information, May 16, 2019, Archive of the IACHR.

⁴⁶⁰ United States Department of State, United States Permanent Mission to the Organization of American States, Asylum Seekers from Nicaragua in the United States, Request for Information (Article 18 - IACHR Statute), CIDH/SE/Art. 18/5-2019/30, Response of the United States, August 19, 2019. Archive of the IACHR.

⁴⁶¹ IACHR, Press Release, No. 187/19, [IACHR conducts Working Visit to Miami to Present Report on Human Rights Situation in Nicaragua](#), July 31, 2019.

⁴⁶² IACHR, Press Release, No. 180/19, [IACHR Expresses Deep Concern about the Situation of Migrants and Refugees in the United States, Mexico, and Central America](#), July 23, 2019.

⁴⁶³ Time, [Humanitarian Scott Warren Found Not Guilty After Retrial for Helping Migrants at Mexican Border](#), November 21, 2019.

⁴⁶⁴ IACHR, Press Release, No. 001/19, [IACHR Expresses Deep Concern over the Deaths of Two Migrant Children in the Custody of Immigration Authorities in the United States](#), January 7, 2019; and, IACHR, Press Release, No. 180/19, [IACHR Expresses Deep Concern about the Situation of Migrants and Refugees in the United States, Mexico, and Central America](#), July 23, 2019.

⁴⁶⁵ IACHR, Press Release, No. 001/19, [IACHR Expresses Deep Concern over the Deaths of Two Migrant Children in the Custody of Immigration Authorities in the United States](#), January 7, 2019.

⁴⁶⁶ IACHR, Press Release, No. 180/19, [IACHR Expresses Deep Concern about the Situation of Migrants and Refugees in the United States, Mexico, and Central America](#), July 23, 2019.

307. In addition, the Commission laments that while the court order by the U.S. District Court of the Southern District of California, based in San Diego, in the matter of *Ms. L.* halted family separations, this practice continues to the point that since that ruling at least 1,100 children have been separated from their families.⁴⁶⁷ In this regard, the IACHR continues monitoring the lawsuit filed by the American Civil Liberties Union (ACLU) that still seeks to halt the separation of children from their families. According to the information sent by the ACLU in the context of that lawsuit, the separation cases include not only situations in which the parents face criminal charges, but also situations in which the separation was not the most suitable measures for upholding the best interest of the children.⁴⁶⁸

308. The Commission also expresses its concern since corporal punishment continues as a legal practice in all states of the United States, primarily in the home. According to information provided by the Global Initiative to End All Corporal Punishment of Children, the legislation of several states confirms the right of parents to inflict physical punishment on their children. In addition, physical punishment is legally allowed in alternative care units in 10 states, while 19 states allow physical punishment in public and private schools. By way of contrast, the Commission welcomes the reintroduction of a bill in the U.S. Congress that would prohibit corporal punishment in schools.⁴⁶⁹

309. With respect to the rights of **LGBTI persons**, the Commission received information regarding various gains in guaranteeing their rights at both the state and local levels. Accordingly, the Commission took note of the prohibition of “conversion” therapies in New York⁴⁷⁰, Massachusetts⁴⁷¹, Colorado⁴⁷², Maine⁴⁷³, and Puerto Rico.⁴⁷⁴ It also noted the inclusion of the option of using a neutral “X” gender marker in New Hampshire⁴⁷⁵, as well as judgments and settlements regarding the right of trans persons to use washroom facilities that conform to their own gender identity in Virginia⁴⁷⁶ and North Carolina.⁴⁷⁷ In addition, the IACHR is pleased to note that in the state of Illinois classes will begin to be given on LGBTI history for the purpose of promoting a more inclusive educational environment.⁴⁷⁸ The Commission also learned that Danica Roem was reelected to the House of Delegates (the state legislature) of Virginia, making her the first trans woman ever to be reelected to the office of state legislator in the United States.⁴⁷⁹

310. As regards acts of discrimination and violence, the Commission observes that there are reports that at least 22 trans persons have been murdered in the United States in 2019.⁴⁸⁰ Furthermore, decisions have been made at the federal level that affect the rights of LGBTI persons, mainly the entry into force

⁴⁶⁷ The Intercept, [The government has taken at least 1,100 children from their parents since family separations officially ended](#), December 9, 2019. See also: IACHR, Press Release, No. 228/19, [IACHR conducted visit to the United States' Southern Border](#), September 16, 2019.

⁴⁶⁸ ACLU, [Memorandum in support of motion to enforce preliminary injunction](#), *Ms. L., et al. v. U.S. Immigration and Customs Enforcement (ICE)*, et al., July 30, 2019, pp. 6-13.

⁴⁶⁹ Global Initiative to End All Corporal Punishment of Children, [Country Report: United States of America](#), December 2019.

⁴⁷⁰ NBC News Digital, [New York to become 15th state to ban 'gay conversion therapy.'](#) January 15, 2019.

⁴⁷¹ NBC News Digital, [Massachusetts becomes 16th state to ban 'gay conversion therapy.'](#) April 9, 2019.

⁴⁷² The New York Times, [Colorado Bans 'Conversion Therapy' for Minors](#), June 1, 2019.

⁴⁷³ USA Today, [Gay conversion therapy for minors: Maine becomes the 17th state to ban the practice](#), May 29, 2019.

⁴⁷⁴ The New York Times, [Governor of Puerto Rico Signs Executive Order Banning 'Conversion Therapy' for Minors](#), March 27, 2019.

⁴⁷⁵ ACLU New Hampshire, [It's official: New Hampshire will offer an "x" gender marker for state driver's licenses](#), July 11, 2019.

⁴⁷⁶ The New York Times, [Virginia Schools' Bathroom Rule Violates Transgender Rights, U.S. Judge Says](#), August 9, 2019.

⁴⁷⁷ The New York Times, [North Carolina Reaches Settlement on 'Bathroom Bill'](#), July 23, 2019.

⁴⁷⁸ Newsweek, [Illinois will start teaching LGBT history in public schools: 'an inclusive education system can create change.'](#) August 18, 2019.

⁴⁷⁹ New York Post, [Danica Roem, first transgender lawmaker, reelected in Virginia](#), November 5, 2019.

⁴⁸⁰ Human Rights Campaign, [Violence Against the Transgender Community in 2019](#), 2019.

of the prohibition on military service for trans persons, as well as discrimination at the detention centers for migrants and asylum-seekers based on sexual orientation, gender identity and/or expression, and having HIV.⁴⁸¹ In addition, at a public hearing held during its 174th period of sessions, the Commission was informed of the vulnerability of trans persons who migrate to the United States in search of a life free from stigma and discrimination. The State, for its part, said that the immigration authorities have specialized care protocols for persons whose personal conditions situate them in a particular degree of vulnerability.⁴⁸²

311. As for **women's rights**, the Commission observes with concern the delay on the part of the Senate in voting to renew the Violence Against Women Act (VAWA) of 1995, which lapsed in February 2019. That statute creates and supports comprehensive responses to domestic violence, sexual assault, violence in couples, and harassment.⁴⁸³ The Commission appeals to the State to adopt all measures necessary to secure the renewal of the Violence Against Women Act.

312. The Commission has received information on the initiative of organized groups to prevent the adoption of a provision proposed in the context of the Domestic Violence Act that seeks to limit access to arms for persons convicted of domestic violence.⁴⁸⁴ According to data to which the IACHR had access, every year 600 women are murdered by their partners or husbands in the United States.⁴⁸⁵ The same study finds that women are five times more likely to be assassinated when their assailants have access to firearms. Accordingly, the Commission urges the State to adopt measures to regulate the possession and use of firearms and munitions by private persons, bearing in mind the impact it has on the rights of women, in particular their rights to integrity and life.

313. The Commission has also observed with concern actions and statements by high-profile public authorities related to sexual harassment and other forms of violence against women, which would be incompatible with the state obligations to prevent and fight gender-based violence. Similarly, the IACHR has identified, through its monitoring actions, the systematic use by authorities of discriminatory and stigmatizing discourse aimed at women, in particular women active in politics and women human rights defenders.⁴⁸⁶ Accordingly, the IACHR reiterates its call to the authorities to refrain from giving speeches that have a content that may reinforce gender stereotypes and sociocultural patterns of discrimination.

314. In addition, the Commission noted that in the states of Mississippi, Alabama, Missouri, and Georgia statutes have been adopted that restrict women's access to interrupting pregnancy, in some cases even when the pregnancy is the result of rape.⁴⁸⁷

315. As regards the situation of **Afrodescendent persons**, the IACHR notes the hearing held in June 2019, convened by a subcommittee of the U.S. House of Representatives Committee on the Judiciary, with the aim of addressing the matter of reparations by the Government to the descendants of persons who were enslaved for the crime of slavery, Jim Crow laws, mass incarceration, and other forms of racial discrimination against African-Americans. This proposal picked up more support after a bill was introduced in the House of

⁴⁸¹ The Washington Post, [Human rights groups allege ICE, private detention companies, provide poor care to LGBTQ migrants and those with HIV](#), September 25, 2019.

⁴⁸² IACHR, Public hearing on [Situation of transsexual persons who migrate to the United States](#), November 12, 2019.

⁴⁸³ KSNT, [Violence Against Women Act still stuck in the U.S. Senate](#), January 8, 2020.

⁴⁸⁴ The New York Times, [Why the N.R.A. Opposes New Domestic Abuse Legislation](#), April 1, 2019.

⁴⁸⁵ Giffords Law Center, Domestic Violence & Firearms, Domestic Violence & Firearms, 2019.

⁴⁸⁶ CNN, [Why Trump keeps calling women 'nasty'](#), August 21, 2019.

⁴⁸⁷ AP, [Mississippi Senate OKs ban on abortion after fetal heartbeat](#), March 19, 2019; Local Memphis, [Mississippi Senate OKs Ban On Abortion After Fetal Heartbeat Is Detected](#), March 19, 2019; Washington Post, [Alabama Senate passes nation's most restrictive abortion ban, which makes no exceptions for victims of rape and incest](#), May 14, 2019; El País, [Última ofensiva en EE UU contra el aborto: Alabama se acerca a la prohibición total](#), May 16, 2019; AP, [Missouri Senate passes bill to ban abortions at 8 weeks](#), May 16, 2019; NBC News, [Missouri Senate passes bill to outlaw abortion at 8 weeks](#), May 16, 2019; El País, [El Estado de Georgia aprueba una ley que prohíbe el aborto si se detecta latido fetal](#), May 7, 2019.

Representatives (H.R. 40) and the Senate (S. 1083) seeking to have a commission established in Congress to study the impact of slavery and to draw up proposals for reparation.⁴⁸⁸

316. In keeping with its mandate and inter-American standards, the IACHR published the report [African Americans, Police Use of Force, and Human Rights in the United States](#) in which it presents its concerns regarding the increase in the number of cases involving police excesses and the use of racial profiling, the excessive use of force by the police, and racial disparities in criminal arrests, convictions, and sentences. The Commission reminds the State that the Inter-American Convention Against Racism, Racial Discrimination, and Related Forms of Intolerance provides that it is the duty of the states to prevent, eliminate, prohibit, and punish acts and expressions of hatred, racism, discrimination, and intolerance.

317. As regards the rights of **indigenous peoples**, the IACHR continued to monitor the situation of defenders of their human rights, particularly in connection with resistance against the building of oil pipelines and the execution of energy and extractive industry projects in indigenous territories. In that context, the Commission conducted a public hearing in connection with its 172nd period of sessions, in which it addressed the detention of more than 840 people for resisting the Dakota Access Pipeline.⁴⁸⁹

318. With regard to the **freedom of expression**, one continues to observe a context of hostility, in the United States, towards journalism and the free workings of the communications media. The disparaging comments by high-level government authorities against the press they consider “dishonest,” “corrupt,” “enemy of the people,” who put out “fake news” and who are said to commit “virtual acts of treason” tend to undermine the role of the press.⁴⁹⁰ This context appears to have opened the way for attacks and harassment, including by government partisans, to the detriment of journalists and media outlets. In addition, the Office of the Special Rapporteur observes that the adoption of more demanding requirements has hindered correspondents from gaining access to the White House, which has resulted in several journalists being stripped of their credentials.⁴⁹¹

⁴⁸⁸ BBC News, Slavery reparations hearing ignites fiery debate in Congress, June 19, 2019.

⁴⁸⁹ IACHR, Public Hearing on [Criminalization of human rights defenders of indigenous peoples and the extractive industry in the United States](#), May 9, 2019.

⁴⁹⁰ “The rigged and corrupt media is the enemy of the people.” Official Twitter Account of Donald J. Trump @realDonaldTrump. February 17, 2019. Official Twitter Account of Donald J. Trump @realDonaldTrump. February, March, July 2019. “Fake News equals the enemy of the people.” “The Mainstream Media is out of control. They constantly lie and cheat in order to get their Radical Left Democrat views out there for all to see. It has never been this bad. They have gone bonkers, & no longer care what is right or wrong. This large scale false reporting is sick!” Official Twitter Account of Donald J. Trump @realDonaldTrump. July 22, 2019. See also, The Hill. March 19, 2019. [Trump blasts ‘fake news media’ as ‘absolute enemy’ in the latest attack on media](#). PressTV. March 19, 2019. [Fake news media is ‘absolute enemy’ of people: Trump](#).

“Get rid of them. Fake news is a great term, isn’t it? You don’t have this problem in Russia but we do,” Trump said. Putin answered in English: “We also have. It’s the same.” The Guardian. June 28, 2019. [Trump jokes to Putin they should ‘get rid’ of journalists](#). Global News. June 28, 2019. [Trump joked to Putin about getting ‘rid of’ journalists- a look at how they treat media](#).

Real Clear Politics. July 13, 2018. [Trump Refuses Question From CNN’s Jim Acosta: ‘CNN Is Fake News.’](#)

⁴⁹⁰ “Nothing funny about tired Saturday Night Live on Fake News NBC! Question is, how do the Networks get away with these total Republican hit jobs without retribution? Likewise, for many other shows? Very unfair and should be looked into,” Trump wrote. “This is the real Collusion!” Official Twitter Account of Donald J. Trump @realDonaldTrump. February 17, 2019. New York Post. March 17, 2019. [Trump rages against SNL-despite it being a rerun](#). The Hill. March 17, 2019. [Trump criticizes ‘Saturday Night Live’ after show airs rerun](#). “It’s truly incredible that shows like Saturday Night Live, not funny/no talent, can spend all of their time knocking the same person (me), over & over, without so much of a mention of ‘the other side.’” “Like an advertisement without consequences. Same with Late Night Shows.” Trump then suggested that the Federal Election Commission or Federal Communications Commission “look into this.” “There must be Collusion with the Democrats and, of course, Russia! Such one-sided media coverage, most of it Fake News.” Official Twitter Account of Donald J. Trump @realDonaldTrump. March 17, 2019. CNN. March 17, 2019. [Trump’s ‘SNL’ attack crosses the line](#).

⁴⁹¹ The new requirement for accessing the hard pass is that journalists have been present at the White House for at least 90 of a period of 180 days. Columbia Journalism Review. May 9, 2019. [White House revokes press passes for dozens of journalists](#); Huffpost. May 9, 2019. [White House rescinds some press passes as journalists slam new attack on media](#);

The Guardian. August 17, 2019. [Trump suspends CNN analyst’s credentials in another shot at the press](#); CNN Business. September 4, 2019. [Judge rules White House must give Playboy columnist Brian Karem his press pass back](#).

319. The application of the Espionage Act persists, along with court orders for journalists to reveal their sources or come forward as witnesses to testify about facts they have reported on or investigated.⁴⁹² In particular, the Rapporteurship is concerned about the charges brought under the Espionage Act against Julian Assange for publishing “government secrets,” and the search of the home of a journalist in San Francisco in the search for his sources. In addition, restrictions on access to public information have been reported.

320. Without prejudice to the foregoing, the Office of the Special Rapporteur highlights the gains in the judicial and legislative spheres, at both the federal and state levels, which have adopted favorable decisions that protect the freedom of expression, as well as legislative proposals that seek to protect and guarantee this right.⁴⁹³

GRENADA

- **General considerations**

321. As regards **progress**, the IACHR highlights the efforts made by the State of Grenada to digitally manage the police information system.

322. As regards **challenges**, the IACHR takes note of an increase in reports of attacks on members of the police force. The Commission also notes the presence of an individual on death row in Grenada, the situation of LGBTI persons in the country, and the lack of protection of older persons from abuse and exploitation.

323. The State did not respond to the request for information sent to prepare this chapter.

Reporters without Borders (RSF). Weekly Address, September 23-29, 2019. [Trump administration appeals decision in Brian Karem's press pass case](#). Deadline. September 27, 2019. [White House Appeals Judge's Decision To Restore Brian Karem's Hard Pass](#).

CNN Business. November 26, 2019. ['Everybody's nightmare come true': Bloomberg reporters grapple with covering Bloomberg campaign](#). BBC News. December 2, 2019. [Trump campaign denies press credentials to Bloomberg News](#). The Guardian. December 2, 2019. [Trump campaign will deny press credentials to Bloomberg News](#).

The Hill. November 25, 2019. [Bloomberg union calls on company to rescind decision to not investigate 2020 presidential candidates](#). National Review. November 26, 2019. [Bloomberg Journalists' Union demands management lift ban on investigating Dem 2020 candidates](#).

AP News. December 6, 2019. [Bloomberg: His News reporters need to accept restrictions](#). Fox News. December 7, 2019. [Bloomberg dismisses complaints from his outlet's reporters on 2020 coverage: 'Your paychecks' come with 'restrictions and responsibilities.'](#) Various cases of denial of press access to cover events have been reported to the Office of the Special Rapporteur for Freedom of Expression. See <https://pressfreedomtracker.us/denial-access/>

⁴⁹² The United States Department of Justice. May 9, 2019. [Former Intelligence Analyst Charged with Disclosing Classified Information](#). NPR. May 9, 2019. [U.S. Charges Former Intelligence Analyst With Leaking Classified Data To Reporter](#). U.S. Press Freedom Tracker. No date. Available at: https://pressfreedomtracker.us/subpoena/?date_lower=2019-01-01&date_upper=2019-12-18; The Nevada Independent. March 6, 2019. [Shield law does not protect online publishers without press association membership. Nevada judge rules](#). Reno Gazette Journal. March 7, 2019. [Nevada judge rules online journalist must reveal sources, not protected by media shield law](#). U.S. Press Freedom Tracker. October 1, 2019. [BuzzFeed receives third subpoena in ongoing Unsworth-Musk defamation lawsuit](#).

⁴⁹³ CNN. April 11, 2019. [Police arrest Julian Assange at Ecuadorian Embassy in London](#). The New York Times. April 11, 2019. [Julian Assange Arrested in London as U.S. Unseals Hacking Conspiracy Indictment](#). The Guardian. April 11, 2019. [Julian Assange faces US extradition after arrest at Ecuadorian embassy](#). Reuters. May 1, 2019. [Julian Assange sentenced to 50 weeks in British jail for skipping bail](#). CNN. May 1, 2019. [Julian Assange gets almost a year in UK prison for skipping bail](#). The New York Times. April 11, 2019. [Julian Assange Arrested in London as U.S. Unseals Hacking Conspiracy Indictment](#). The United States Department of Justice. April 11, 2019. [WikiLeaks Founder Charged in Computer Hacking Conspiracy](#). The United States Department of Justice. May 23, 2019. [WikiLeaks Founder Julian Assange Charged in 18-Count Superseding Indictment. Charges Related to Illegally Obtaining, Receiving and Disclosing Classified Information](#). Julian Assange 18-count indictment available at: <https://www.justice.gov/opa/press-release/file/1165556/download>. See also, CNN. May 2, 2019. [WikiLeaks founder indicted on Espionage Act charges, raising issue of press freedoms](#). NBC News. May 23, 2019. [WikiLeaks co-founder Julian Assange indicted on 17 new charges under Espionage Act](#). El Comercio. [June 10, 2019. EE.UU. solicitó la extradición de Julian Assange](#). Reuters. June 11, 2019. [U.S. formally asks UK to extradite WikiLeaks' Assange](#). Reuters. June 14, 2019. [UK court sets Assange U.S. extradition hearing for February 2020](#). The Verge. June 14, 2019. [Julian Assange's extradition to the US will be decided by the UK courts in 2020](#).

- **Specific issues**

324. Regarding the crosscutting issue of **human rights institutions**, the IACHR highlights that the Office of the Ombudsman of Grenada is part of the Caribbean Ombudsman Association and the Commonwealth Forum of National Human Rights Institutions.⁴⁹⁴ The office participated in the 10th Conference of the Caribbean Ombudsman Association, in the framework of which the Bermuda Declaration was adopted,⁴⁹⁵ which is aimed at strengthening and maintaining independent relationships for improved effectiveness of local ombudsman offices. Also, the Grenada office was selected as a member of the Caribbean Ombudsman Association Council for the 2019-2021 period.⁴⁹⁶

325. Regarding **citizen security**, the IACHR welcomes the launch of the Police Records Management Information System (PRMIS) in Grenada,⁴⁹⁷ but also expresses concern at the increasing number of attacks on police officers in the country.⁴⁹⁸

326. Regarding the Police Records Management Information System (PRMIS), Grenada and the United States have collaborated on a joint effort to digitize the country's data on crime and violence. The aim of the system is to convert police information systems to a digital format in order to increase the efficiency of the struggle against violence. It will specifically help Grenada's police force to improve data management and analysis and enhance police response to crime. The system has been undergoing tests in three areas since July 2019: St Paul's, St George's Central, and St George's South.⁴⁹⁹

327. Regarding violence against the police, the IACHR observes that during the first six months of 2019, attacks against police officers increased by 35% compared to the same period in 2018. According to information from the police, lack of respect for police officers is on the rise in the country. The State indicates specifically that, during the same period, assaults on police officers increased from 40 incidents in 2018 to 54 in 2019.⁵⁰⁰

328. With regard to the **death penalty**, the IACHR expresses concern that an individual is on Grenada's death row. Although the country has not carried out any executions since 1978, the Commission observes that in December 2018, it was reported that an individual was on the country's death row. According to the latest available information, as of May 2019, this individual was still on death row. During its 174th Period of Sessions, the Commission held a hearing on the death penalty in the Caribbean. During the hearing, the importance of abolishing the death penalty in the region was reemphasized, in accordance with the spirit of the American Convention, which Grenada has ratified. In this regard, the IACHR urges the State to ratify the Protocol to the American Convention on Human Rights to Abolish the Death Penalty.

329. With regard to **LGBTI persons**, the IACHR continues to note with concern that, as indicated in its 2018 annual report, Grenada's Criminal Code establishes a punishment of 10 years in prison for consensual sexual contact between adults of the same sex (Section 431 of Title XXIX of the Penal Code).⁵⁰¹

⁴⁹⁴ For more, see [Commonwealth Forum of National Human Rights Institutions](#).

⁴⁹⁵ For more information, visit <http://cloudfront.bernews.com/wp-content/uploads/2019/05/CAROA-Bermuda-Declaration-2019.pdf>.

⁴⁹⁶ For more information, visit <http://bernews.com/2019/05/ombudsman-conference-a-great-success/>.

⁴⁹⁷ U.S Embassy, "[United States Government and the Government of Grenada Join Forces to Digitize Crime and Violence Data](#)," July 24, 2019.

⁴⁹⁸ *The Gleaner*, "[Grenada Police Warn Of Increase Attacks On Cops](#)," August 7, 2019.

⁴⁹⁹ U.S Embassy, "[United States Government and the Government of Grenada Join Forces to Digitize Crime and Violence Data](#)," July 24, 2019.

⁵⁰⁰ *The Gleaner*, "[Grenada Police Warn Of Increase Attacks On Cops](#)," August 7, 2019.

⁵⁰¹ IACHR, [Annual Report: Chapter IV-A on Grenada](#), para. 234.

330. Also, situations were documented raising concerns with regard to abuse of **older persons**, including financial and sexual exploitation, lack of care and family support, and lack of access to some aspects of medical care. Grenada's civil society has asked that the State increase its budget for the general development of older persons. It was also indicated that a public education and awareness-raising campaign was needed on the aging process, with a focus on equality.⁵⁰²

GUATEMALA

- **General considerations**

331. As regards **progress**, the IACHR salutes the decline in indicators of crime in relation to 2018.⁵⁰³

332. As regards the **challenges**, the Commission notes serious setbacks in the struggle against corruption, impunity, and the institutional framework for human rights, which has a negative impact on securing truth, justice, and memory for human rights violations of the past. In addition, the IACHR has observed with concern several acts opposing the work of the Human Rights Ombudsperson (Procurador de Derechos Humanos) of Guatemala that impair the performance of his institutional functions and that have been denounced as acts of harassment. Similarly, the IACHR continues to be profoundly concerned over the criminalization of human rights defenders as well as the situation of migrants in Guatemala.

333. The State did not respond to the request for information sent out as part of the process of drafting this chapter.

- **Specific topics**

334. With respect to the cross-cutting issue of the **institutional framework for human rights**, the work of the Human Rights Ombudsperson (PDH, Procurador de Derechos Humanos), Jordán Rodas, merits special mention; it has been fundamental for defending the institutions in charge of combatting corruption and impunity and protecting human rights independently and autonomously. Nonetheless, the civil society organizations have stated that a campaign is under way to tarnish, discredit, and threaten the Human Rights Ombudsperson, in retaliation for having maintained the institution's autonomy, and in particular because of his advocacy for continuing the mandate of the CICIG and its work fighting corruption and impunity; which have been described as acts of harassment.⁵⁰⁴ The Commission expressed its concern over this series of acts and over a new proceeding aimed at removing the Human Rights Ombudsperson.⁵⁰⁵

335. The Human Rights Ombudsperson has expressed his concern over the lack of financial resources, in addition to a budget cut, noting that this places at risk the defense and promotion of the human rights of persons who live in Guatemala.⁵⁰⁶ The Human Rights Ombudsperson has denounced the Government's efforts to obstruct the performance of his functions by means of the "financial asphyxiation of the institution,

⁵⁰² *Now Grenada*, [A call to address concerns of elderly on International Day for Older Persons](#), October 1, 2019.

⁵⁰³ STCNS [Reporte Estadístico Agosto 2019](#); AGN, Guatemala: once índices de criminalidad descienden en 2019 (informe a (informe a agosto), September 17, 2019.

⁵⁰⁴ CALDH, CEJIL, Fundación Myrna Mack, Instituto de Estudios Comparados en Ciencias Penales de Guatemala (ICCPG), UDEFEGUA, [Organizaciones instamos a garantizar independencia del procurador de derechos humanos en Guatemala](#), October 4 2017; *Impunity Watch*, Seguimiento a las recomendaciones de la CIDH sobre Guatemala, received October 25, 2019; CAFCA, Información sobre situación de justicia transicional en Guatemala, November 4, 2019; IACHR, [Hearing on obstacles, setbacks, and challenges for advancing human rights in Guatemala](#), September 23, 2019; BDH, Seguimiento sobre el cumplimiento de las recomendaciones Informe "Situación de derechos humanos en Guatemala," November 3, 2019.

⁵⁰⁵ IACHR, Press Release No. 298/19, [IACHR Expresses Its Concern over a New Attempt to Dismiss the Guatemalan Human Rights Ombudsperson](#), November 19, 2019.

⁵⁰⁶ PDH, communication to the IACHR, November 5, 2019.

systematic threats and pressures, repeated efforts aimed at [his] removal, and campaigns of slander and defamation.”⁵⁰⁷

336. The IACHR has monitored this situation of budget cuts, threats of removal, questioning of the validity of his decisions⁵⁰⁸, and the campaign in social networks against him and harassment and threats directed against him and his family; due to those threats he and his family have been granted precautionary measures, which are still in force.⁵⁰⁹ In the face of this hostile context the IACHR recalls that the OAS reaffirmed the importance of establishing effective national institutions for promoting and protecting human rights and maintaining their independence and pluralism in their representatives.⁵¹⁰

337. In terms of **democratic institutional framework**, in June presidential, legislative, and municipal elections were held, along with elections for the Central American Parliament, in which Alejandro Giammattei was elected, on the second round in August, with 57.5% of the valid votes.⁵¹¹ In addition, of the 160 seats in the Congress of Guatemala, 110 new legislators were elected.⁵¹²

338. As for **citizen security**, the homicide rate fell from 22.9 per 100,000 population (in 2018) to 21.5 per 100,000 population, a 6.11% decline. This reflected a 3.21% decline in the number of homicides (from 2,556 victims to 2,474). In addition, the same period saw a 55% decline in kidnappings (from 20 to nine) in relation to the previous year. As for the number of persons injured in acts of violence, a decline was reported of 4.5 per 100,000 population (from 25.9 to 21.4), i.e. 17.37%.⁵¹³ The National Forensic Sciences Institute (INACIF: Instituto Nacional de Ciencias Forenses) also reported a reduction in the number of murders involving the use of firearms in the first half of 2019; there were 1,418 male victims and 200 female victims, compared to 1,455 and 214 respectively in 2018.⁵¹⁴ The Commission values the State’s efforts to bring about this general reduction in levels of violence, and encourages it to continue, with emphasis on youth.

339. The IACHR expresses its concern that as of the death of three soldiers in a purported confrontation in the community of Semuy II, Izabal, in September, the Executive declared a state of siege, initially for 30 days, in 22 communities.⁵¹⁵ The State reported on that declaration and the suspension of the guarantees provided for at Articles 7, 8, 15, and 22 of the American Convention, in relation to the freedom of movement, the right to be free from detention and interrogation, and the right of assembly and protest.⁵¹⁶ The IACHR recalls that states of siege, or states of emergency, must be based on strict grounds such as the existence of an objective and extremely grave danger that places at risk the preservation of democracy or the integrity of the nation.⁵¹⁷ The events in which the members of the armed forces were killed in the performance of their duties require an investigation into the facts and punishment of those responsible. Without prejudice to this,

⁵⁰⁷ El Diario, [El Ómbudsman de Guatemala denuncia ser "blanco de ataques" de diputados](#), October 27, 2019, CEJIL, del Informe de Situación de DDHH en Guatemala, November 4, 2019.

⁵⁰⁸ *Impunity Watch*, Seguimiento a las recomendaciones de la CIDH sobre Guatemala, received October 25, 2019.

⁵⁰⁹ IACHR, MC No. 674-17, Resolution No. 42-17 Augusto Jordán Rodas Andrade and his family with respect to October 27, 2017. See IACHR, Press Release No. 174/17, [IACHR Grants Precautionary Measure for Human Rights Ombudsman Guatemala](#), November 3, 2017.

⁵¹⁰ OAS, Permanent Council, Report of the Permanent Council on Strengthening the Role of the National Institutions for the Promotion and Protection of Human Rights in the OAS, April 29, 2019.

⁵¹¹ Telesur, [TSE oficializa a Alejandro Giammattei como presidente de Guatemala](#), August 22, 2019.

⁵¹² Prensa Libre, [Dos de cada tres diputados serán nuevos en el Congreso que tomará posesión en 2020](#), June 18, 2019.

⁵¹³ STCNS [Reporte Estadístico Agosto 2019](#); AGN, Guatemala: once índices de criminalidad descienden en 2019 (informe a agosto), September 17, 2019.

⁵¹⁴ Prensa Libre, [Según cifras de Inacif, Guatemala registra 2,330 homicidios en lo que va del 2019](#), July 8, 2019.

⁵¹⁵ Republic of Guatemala, Executive Decree No. 01-2019. RT, [Guatemala declara 'estado de sitio' en varios municipios tras violenta emboscada a militares](#), September 5, 2019.

⁵¹⁶ Republic of Guatemala, Ministry of Foreign Affairs, note to the Secretary General of the OAS, September 4, 2019.

⁵¹⁷ See IACHR, Press Release No. 270/19, [CIDH condena excesivo uso de la fuerza y rechaza toda forma de violencia en el marco de las protestas sociales en Chile](#), October 23, 2019.

the IACHR considers that this declaration of a state of siege, based on the violent acts that took the lives of three agents of the State, is disproportionate.⁵¹⁸

340. The IACHR also reiterates that it is fundamental that there be a clear separation between the functions that correspond to the armed forces, limited to the defense of national sovereignty, and those that correspond to the police, as those with the exclusive responsibility of ensuring citizen security. The obligations assumed by the states require public policies on security and fighting crime that accord priority to the operation of an efficient institutional structure that should guarantee the population the effective exercise of human rights related to preventing and controlling violence and crime, including organized crime. Accordingly, Guatemala should avoid militarizing public security and adopt the measures necessary to strengthen the National Civilian Police.

341. With respect to **access to justice and judicial independence**, civil society organizations reiterated a series of concerns regarding the election of judges to the Chambers of the Court of Appeals and the Supreme Court of Justice (CSJ) in 2019, especially the fact that it was held using Nominating Commissions formed without proper regard for transparency.⁵¹⁹ On September 16, the Constitutional Court (CC) annulled the membership of the Nominating Commission for choosing candidates to the CSJ by granting *amparos* (actions for protection of a Constitutional right) complaining that the magistrates making up the Nominating Commission had not been elected in accordance with law,⁵²⁰ and decided to invalidate the election.⁵²¹ Consequently, the Judicial Career Counsel (CCJ) should follow the Judicial Career Law (LCJ) procedure: i.e., it must draw up the rules of procedure, constitute the subsidiary organs, establish the Professional Performance Evaluation Unit, and proceed to evaluate judges and magistrates, based on appropriate criteria and methodologies, as required by international standards.⁵²²

342. That same month, Congress included amendment of the LCJ as an item on its agenda.⁵²³ However, in response to the decision taken by the CC, some representatives in Congress pushed for a decree suspending application of Article 76 of the LCJ, in order to allow the procedures performed by the Nominating Commissions for drawing up the list of candidates, not just for magistrates of the CSJ, but also for those of the Court of Appeals and for judges of other tribunals, as well. That would entail non-compliance with the decision of the CC regarding evaluation of candidates to the Courts.⁵²⁴ As of the date this report was approved, that decision by the CC had not been complied with.

343. The IACHR is likewise concerned about the critical and offensive speeches pronounced by a variety of actors in an extremely polarized environment, especially pronouncements by State agents against

⁵¹⁸ See IACHR, [Hearing on obstacles, setbacks, and challenges for advancing human rights in Guatemala](#), October 23, 2019.

⁵¹⁹ Cejil, DPLF, *Avocats Sans Frontiers*, *Impunity Watch*, Plataforma Internacional contra la Impunidad, *Open Society Justice Initiative*, WOLA, Fundación para la Justicia y el Estado Democráticos de Derecho, GHRC y RFK *Human Rights*, [Organizaciones internacionales expresan preocupación por irregularidades en el proceso de elección de altas cortes en Guatemala](#), 11 de septiembre de 2019.

⁵²⁰ PDH, Seguimiento sobre el cumplimiento de las recomendaciones del informe sobre situación de derechos humanos en Guatemala 2017, recibido el 17 de octubre de 2019; Cejil, Seguimiento del Informe de Situación de DDHH en Guatemala, 4 de noviembre de 2019.

⁵²¹ Prensa Libre, [Postulación de aspirantes a CSJ debe comenzar de nuevo](#), 16 de septiembre de 2019.

⁵²² Ver *Impunity Watch*, [Obstáculos a la carrera judicial en Guatemala](#), 24 de octubre de 2019, pág. 25; Cejil, Seguimiento del Informe de Situación de DDHH en Guatemala, 4 de noviembre de 2019.

⁵²³ República de Guatemala, Congreso, Decreto 32-2016 (iniciativa de ley 5577).

⁵²⁴ La propuesta también establece un mes para la aprobación el reglamento correspondiente, indicando que, para la implementación del sistema de evaluación, la CSJ gestionará de su presupuesto “todos los requerimientos e insumos necesarios para dar cumplimiento a lo regulado en el artículo 32 de la ley, a fin de iniciar la evaluación de jueces y magistrados a más tardar dentro del plazo de seis meses contados a partir de la vigencia de este decreto”. Este art. también evade el cumplimiento de lo determinado por la CC. PDH, Seguimiento sobre el cumplimiento de las recomendaciones del informe sobre situación de derechos humanos en Guatemala 2017, recibido el 17 de octubre de 2019.

the decisions of the CC.⁵²⁵ In this context, it is worth highlighting that, in October 2019, the IACHR granted precautionary measures to protect a judge⁵²⁶ and three magistrates of the CC.⁵²⁷

344. As regards the situation of **human right defenders**, the IACHR observes the persistence of processes of criminalization against those who defend human rights in Guatemala. In this respect, the IACHR and the Office of the United Nations High Commissioner for Human Rights have repeatedly expressed their concern over the criminalization faced in particular by peasants and indigenous persons who defend their communities' right to land and territory.⁵²⁸ The IACHR notes that on April 26 2019, the Court of High Risk acquitted Maya Q'eqch'í human rights defender Abelino Chub Caal of all charges. He was held in prison in pretrial detention for more than two years, accused of crimes related to claims of ancestral lands and protests against the activities of agroindustrial companies.⁵²⁹ In addition, the IACHR received information about the complaint filed by the Supreme Court of Justice against Claudia Samayoa, president of the Unidad de Protección a Defensoras y Defensores de Derechos Humanos, Guatemala (UDEFEHUA), and José Manuel Martínez, a member of the Colectivo JusticiaYa, over facts related to their participation in a lawsuit filed by both of them in January 2019 against 11 judges of that Guatemalan Court.⁵³⁰

345. As regards, **indigenous peoples**, the IACHR notes that Congress has still not passed the Indigenous Peoples Law, as required under Article 70 of the Constitution. It likewise notes that in 2019 complaints continued, due to failure to engage in prior consultation, problems with implementing environmental impact assessments, and contamination of indigenous territories. Nevertheless, the Commission welcomes the cooperation initiative between Guatemala's Ministry of Labor and Social Security, representatives of the International Labour Organization (ILO), and the Government of Peru to discuss the proposed Law to Regulate Consultation with Indigenous Peoples within the framework of the Indigenous and Tribal Peoples Convention, also known as ILO-convention 169. The IACHR reiterates its recommendation to the State to correct current participatory practices and to conduct free, prior, and informed consent consultations with indigenous peoples regarding all legislative and administrative measures capable of directly affecting them.

346. As for the **rights of internally displaced persons**, the Commission observes with concern the gradual growth in human mobility as a result of present-day violence in Guatemala, a result of the deteriorating socioeconomic conditions of the population and shortcomings in internal security.⁵³¹ In addition, the Commission, through a press release, expressed its concern over the situation experienced by **migrants and refugees** from Guatemala who form and join caravans that mobilize by foot to go to Mexico and the United States.⁵³² The IACHR was informed of the use of force by Guatemalan authorities against those caravans. In addition, the Commission is concerned about the situation of Guatemalans who have been returned from Mexico and the United States after entering those countries irregularly. According to public information, in the first six months of 2019, 54,626 Guatemalans with irregular status were returned.⁵³³ Moreover, the

⁵²⁵ CIDH, Comunicado de prensa No. 7/19, [La CIDH expresa preocupación por medidas adoptadas que pueden debilitar contra la impunidad y la corrupción en Guatemala](#), 10 de enero de 2019.

⁵²⁶ CIDH, MC No. 682-18, [Resol 55/2019](#) a favor de la jueza Érika Lorena Aifán Dávila de 23 de octubre de 2019.

⁵²⁷ CIDH, MC No. 28-19, [Resol 56/2019](#) de 25 de octubre de 2019 a favor de los magistrados de la CC José Francisco de Bonerge Amílcar Mejía Orellana, José Mynor Par Usen y María Cristina Fernández.

⁵²⁸ IACHR, Press Release No. 132/19, [IACHR and Regional Branches of the OHCHR Concerned about the Situation of Human Rights Defenders in the Americas in the First Four Months of 2019](#), May 30, 2019.

⁵²⁹ Prensa Libre, [Tribunal absuelve a Abelino Chub Caal y ordena su libertad inmediata](#), April 26, 2019.

⁵³⁰ Front Line Defenders, [Criminalisation of Claudia Samayoa and José Martínez by the President of the Supreme Court of Justice](#), March 26, 2019.

⁵³¹ The IACHR recognized this phenomenon and made specific recommendations in its report [Internal displacement in the Northern Triangle of Central America: Public policy guidelines](#), adopted July 27, 2018

⁵³² IACHR, Press Release No. 037/19, [IACHR Urges Honduras and Guatemala to Guarantee the Rights of People in the Migrant and Refugee Caravan](#), February 19, 2019.

⁵³³ EFE, [OIM: Más de 54.000 guatemaltecos fueron retornados de México y EE.UU. en 2019](#), July 19, 2019.

Commission notes the limitations of the right to apply for asylum that may result from the agreement entered into by Guatemala and the United States, which establishes that those persons who apply for asylum who have gone through Guatemala – without seeking refugee status while there – while on their way to the United States will be returned to Guatemala.⁵³⁴

347. As regards **memory, truth, and justice**, the IACHR expressed its concern over legislative initiative 5377 – which expands the 1996 amnesty for common crimes to also include grave human rights violations that occurred during the internal armed conflict.⁵³⁵ While the IACHR has learned of developments in some cases related to the armed conflict – including the Ixil Genocide, the Dos Erres Massacre, and the sexual violence suffered by women of the Maya Achí people – it has no information indicating that any new cases have been opened.⁵³⁶ As regards the Historical Archive of the National Police (AHPN: Archivo Histórico de la Policía Nacional), on June 13 the Commission requested information from the State of Guatemala on the changes announced in the inter-institutional agreement that regulates the administration of the archive and access to the documents of the AHPN. Answering the State’s response on the new limits established on the use of the building where the archive is located, the IACHR sent a new request for information on August 6, also inquiring into the measures adopted to ensure the coordination of the Historical Archive of the National Police and the direction of the General Archive of Central America, after the dismissal of the persons entrusted with those functions.⁵³⁷

348. With respect to the rights of **women and LGBTI persons**, the IACHR received information on the persistence of bill No. 5272, regarding “protection of life and the family.” If passed into law, that bill would create new restrictions on access to reproductive health for women, prohibit the teaching of a gender perspective and sexual diversity in the schools, reaffirm the institution of marriage as a right exclusively of persons of opposite sexes, and decriminalize discrimination when it is directed against persons of different sexual orientations and gender identities.

349. The IACHR continued monitoring the context related to the blaze at the Hogar Virgen María de Asunción, in which 41 girls and adolescent females lost their lives and 15 suffered injuries on March 8, 2017. In particular, the Commission was informed of the actions taken by civil society organizations that are demanding justice for the families of the victims and the survivors.⁵³⁸ According to information in the public domain, the Fourth Chamber of Appeals confirmed that five former staff members of the Hogar will be put on trial for the tragedy.⁵³⁹ The Commission also views with concern the filing of a criminal complaint by a private individual against the 15 adolescent females affected at the blaze at the Hogar for 15 criminal offenses, including murder, moderate injuries, grave injuries, robbery arson, and public disorder.⁵⁴⁰ The IACHR is especially concerned about the chilling effect criminalizing the victims may have in the criminal action against the persons allegedly responsible. In this respect the IACHR urges the State to adopt the measures to ensure due process in the investigation into those facts and in punishing the persons responsible, recalling the victims’ right to the truth.⁵⁴¹

⁵³⁴ The New York Times, [The U.S. and Guatemala Reached an Asylum Deal: Here’s What It Means](#), July 28, 2019.

⁵³⁵ IACHR, Press Release 014/19, [IACHR Asks Guatemalan State Not to Amend National Reconciliation Law](#), January 25, 2019.

⁵³⁶ Human Rights Ombudsperson, Aportes del Procurador de los Derechos Humanos a la Comisión Interamericana de Derechos Humanos, October 2019, p. 12 (in IACHR archive); Impunity Watch, Informe de seguimiento a las recomendaciones de la CIDH sobre Guatemala, October 23, 2019, pp. 23-24; El Periódico, [Capturan a General acusado de Genocidio](#), November 6, 2019; Asociación Bufete Jurídico de Derechos Humanos, Seguimiento sobre el cumplimiento de las recomendaciones Informe “Situación de derechos humanos en Guatemala”, November 3, 2019, p. 6 (in IACHR archive).

⁵³⁷ Government of the Republic of Guatemala, Note NV-OEA-M12- No. 341-2019, June 27, 2019, pp. 2-3.

⁵³⁸ Telesur, [Exigen justicia por tragedia del Hogar Seguro en Guatemala](#), November 25, 2019.

⁵³⁹ El Periódico, [Sala confirma: cinco exfuncionarios irán a debate oral por tragedia del Hogar Seguro](#), July 9, 2019.

⁵⁴⁰ La Hora, [Criminalizan a víctimas de Hogar Seguro](#), October 24, 2019.

⁵⁴¹ I/A Court HR, Case of the Serrano Cruz Sisters v. El Salvador. Merits, Reparations and Costs. Judgment of March 1, 2005. Series C No. 120, para. 62.

350. At the same time, the Commission salutes the State's initiative to establish a memorial for the 41 adolescents who died in the tragedy.⁵⁴² Nonetheless, the IACHR notes with concern the news that indicates that the survivors and the families of the deceased adolescents were not informed that the memorial was being installed nor were they even invited to the solemn ceremony in which it was unveiled.⁵⁴³ In this regard the Commission reminds the State that the victims should be involved in designing actions for reparation and non-repetition, including ceremonies for reparation such as this.

351. Throughout 2019 the IACHR has observed with concern the situation of poverty and food insecurity that affects Afrodescendants in Guatemala. In particular, the IACHR received with concern information with respect to a study by the Food and Agriculture Organization (FAO) based on data regarding unmet basic needs and chronic malnutrition in rural areas, which showed that Afrodescendant and indigenous persons are overrepresented, accounting for 68% of the population of these municipalities.⁵⁴⁴ Accordingly, the IACHR urges the State to adopt an ethnic-racial approach in its social policies for fighting poverty so as to address the specific situation of Afrodescendants and, in particular, women and children, in rural Guatemala.

352. As regards **persons deprived of liberty**, in May 2019 the IACHR condemned the acts of violence that occurred at the prison known as Granja Penal Pavón (Pavón Prison Farm), where at least seven persons lost their lives and 19 were wounded.⁵⁴⁵ According to information in the public record, in July this prison was once again the scenario of disturbances, resulting in one person killed and three wounded.⁵⁴⁶ In addition, in August there was a riot at the prison in Jalapa, one of the most violent in the country. In July and August six prisoners were said to have been murdered there for refusing to pay the extortion payment known as "*talacha*."⁵⁴⁷

353. As regards the situation of **older persons** the IACHR values the activities implemented by the State to promote their rights, such as the activity organized to promote the development of older adult entrepreneurs.⁵⁴⁸ In addition, it salutes the Program of Economic Contribution for Older Adults, which benefits more than 4,000 older adults in the departments of Santa Rosa and Jalapa who live in extreme poverty; they receive a monthly payment of Q 400 to address their basic needs.⁵⁴⁹ Finally, the judicial branch has installed a technical desk to improve access to justice for older persons⁵⁵⁰; and the program "Guate para Todos" promotes free tourism for older persons.⁵⁵¹ The Commission recognizes these efforts of the State and encourages it to continue working for the rights of older persons.

354. In the area of **freedom of expression** journalists and media outlets faced a hostile scenario in 2019 characterized by the persistence of smear campaigns against the press by high-level authorities and

⁵⁴² La Hora, [Develan memorial en honor a las niñas muertas en el Hogar Seguro](#), November 20, 2019.

⁵⁴³ Nómada, [Hogar Seguro: El gobierno instala un monumento para las niñas sin invitar a sobreviviente, a las familias y sin pedir perdón](#), November 21, 2019.

⁵⁴⁴ FAO, [100 Territorios libres de pobreza y hambre](#), April 23, 2019

⁵⁴⁵ IACHR, Press Release No. 124/19, [IACHR Condemns Acts of Violence in Guatemalan Prison](#), May 21, 2019.

⁵⁴⁶ Infobae, [Disturbios en una cárcel de Guatemala dejaron un muerto y tres heridos entre los reclusos](#), July 6, 2019; Prensa Libre, [Un muerto y tres reos heridos por disturbios en Granja de Rehabilitación Pavón](#), July 6, 2019.

⁵⁴⁷ Guatevisión, [Paredes de adobe deterioradas resguardan a 217 reos de la cárcel de Jalapa](#), August 22, 2019. See Guatevisión, [Reos deben de pagar "talacha" a cambio de no ser golpeados](#); April 1, 2019; PublineWS, [Fuerzas de seguridad retoman el control en cárcel de Jalapa tras motín](#), August 21, 2019; El Periódico, [Motín en la cárcel para hombres de Jalapa](#), August 20, 2019.

⁵⁴⁸ Vice-Ministry of Development for MSMEs and the Center for Integral Theotherapy in cooperation with the Office for Older Adults of Quetzaltenango. Government of the Republic of Guatemala, [Presentan programa de apoyo a emprendedores adultos mayores](#), July 8, 2019.

⁵⁴⁹ AGN, [Programa de Aporte Económico beneficia a más de 4.000 adultos mayores en Santa Rosa y Jalapa](#), September 29, 2019.

⁵⁵⁰ Red Latinoamericana de Gerontología, [Guatemala: Organismo Judicial instala mesa técnica en favor de las personas adultas mayores](#), January 29, 2019.

⁵⁵¹ Guatemala.com, [Adultos mayores conocieron por primera vez lugares turísticos de Guatemala](#), August 21, 2019.

harassment of journalists who investigate cases of corruption and abuses of power by followers of those sectors who opposed the CICIG staying in the country. This critical panorama became more acute in the context of the election campaign; various types of attacks were unleashed on the press and political candidates that were also coordinated through social networks, including hacking of accounts, defamation, hate speech, and discriminatory and sexist discourse. At the same time, the IACHR and its Special Rapporteurship for Freedom of Expression are concerned about the lack of progress in relation to the implementation of mechanism of protection for journalists and media outlets, as well as the weakening of the Historical Archive of the Police. Finally, the IACHR observes with concern the state of emergency imposed by the government and restrictions on the right to assembly and protest, a context in which there were incidents involving attacks on the press.

GUYANA

- **General considerations**

355. In terms of **progress**, the IACHR highlights that local government elections were held in Guyana; also, the country was seen to take steps towards increasing its policing capacity. Additionally worth underscoring was the implementation of the Civil Procedure Rules 2016. Likewise, the IACHR notes progress in the Sexual Offenses Court, created in 2017, with regard to management and processing time of sex crime cases.

356. Regarding **challenges**, the IACHR takes note of the high number of individuals condemned to death in the country.

357. The State responded to the request for information sent to prepare this chapter.

- **Specific issues**

358. Regarding the crosscutting issue of **human rights institutions**, the IACHR highlights the existence of an Ombudsman office, which participated in the 10th Conference of the Caribbean Ombudspersons Association, held in Bermuda. It also should be noted that the Office is a member of the Commonwealth Forum of National Human Rights Institutions.

359. With respect to the **democratic institutional framework**, the IACHR likewise underscores that local government elections in Guyana were held on November 12, 2018. National elections are expected to take place toward the beginning of 2020. Regarding this, the Commission takes note of two decisions adopted following Parliament's no confidence vote of December 21, 2018, against the leader of the governing coalition.

360. Regarding **citizen security**, the IACHR welcomes the measures adopted by the State to increase the capacity of its police force. According to the information provided, the government, with the support of the Inter-American Development Bank, is working to implement its "Program to Strengthen Citizen Security." This program includes an important initiative for designing, developing, and implementing an Integrated Crime Information System (ICIS) to support the Guyana Police Force (GFP) and the Ministry of Public Security (MOHA). Specifically, this program focuses on training members of the police force to prepare them to work more efficiently and reduce abuses committed by them. In this regard, the government appointed a head of the police internal affairs department in September 2018, the individual responsible for receiving complaints in cases of misconduct and supervising the investigation of certain serious crimes allegedly committed by members of the GFP.

361. Also, in 2019, Guyana marked the 40th anniversary of the creation of the community police, a voluntary activity aimed at maintaining vigilance and addressing crime in communities throughout the country, in association with the GFP and other law enforcement agencies. According to the information provided by the State, the country has 221 community policing groups (CPGs) with more than 4,000 members.

362. The IACHR additionally observes that, according to Transparency International's 2018 Corruption Perceptions Index, Guyana was ranked 93 out of 180 countries and, of the countries analyzed in

this report, is ranked among the highest in the fight against corruption. Also, according to public information, Guyanese citizens are optimistic about their country's progress in the fight against corruption. It was found that 40% of Guyanese believe corruption is declining, while 67% believe that the government is properly handling the fight against this scourge.

363. With regard to **access to justice**, the IACHR underscores the application of the new 2016 Civil Procedure Rules, which have replaced the existing rules from 1955. These rules include, among other things, methods for alternative dispute resolution. Once these rules are fully functioning, they are expected to reduce the backlog in the judicial system, as they set strict deadlines for civil procedures.

364. Regarding the **death penalty**, the IACHR notes with concern the number of individuals condemned to death in Guyana. According to the Cornell Center on the Death Penalty, as of the end of 2018, there were 26 individuals condemned to death in Guyana, including two women. Although Guyana has not carried out any executions since 1997, it was reported that the country has 17 people condemned to death. During its 174th Period of Sessions, the Commission held a hearing on the death penalty in the English-speaking countries of the Caribbean. During the hearing, the IACHR recalled that the death penalty is a violation of the right to life, and that States must adopt measures to abolish it.

HAITI

- **General considerations**

365. Regarding **progress**, for 2019, the IACHR highlights the government's commitment to guaranteeing that women are among the senior cabinet members. During the IACHR's *in loco* visit on December 17-20, 2019, the government pointed to the strengthening of its structures for monitoring and submitting human rights information to the inter-American human rights system.

366. Regarding **challenges**, the IACHR notes the excessive use of force against protesters, such as during the protests that took place throughout 2019. The Commission also highlights the need to move forward on the central operational issues to do with justice, such as access to justice, judicial independence, and the penitentiary system, including reducing rates of prolonged pretrial detention and prison overcrowding. Other relevant issues include the practice of *restavek*, the use of corporal punishment, and the holding of children and adolescents in detention centers occupied by adults. The IACHR also underscores as urgent the need to guarantee the safety and respect for physical integrity of women deprived of liberty in view of reports of rape and other violent acts committed against these women.

367. The State did not reply to the request for information to assist with the writing of this Chapter.

- **Specific issues**

368. As regards the **human rights institutions**, Haiti has an Office on Citizen Protection (OPC), which is a national and independent institution for the promotion and protection of human rights.

369. Regarding **democratic institutions**, the IACHR highlights the profound institutional crisis accompanied by political instability in the country with the protests that began on July 2018 and extended throughout 2019. During this period, the country saw a succession of attempts to form a government, which were blocked by the parliament. Thus, 2019 ended with an interim prime minister and a context of risk of political gridlock, with pressure from demonstrators demanding the presidential term be cut short. The IACHR also noted that, as a consequence of the failure to pass the Electoral Act to renew parliament in 2019, the elections were not called that should have been held in November of that year.

370. With regard to **access to justice and citizen security**, the Commission received information on the high proportion of persons deprived of liberty under prolonged pretrial detention in Haiti (75%-80% of the total population of persons deprived of liberty) despite the time limits established in the Constitution and in the law for bringing accused individuals before a judge and processing their cases. The IACHR observes with

concern that, according to information provided by the Office on Citizen Protection, certain persons had been in pretrial detention for periods longer than 5 or 10 years, and in many cases, adolescents and adults were sharing the same space in prisons.

371. As regards the **rights of migrants and asylum applicants**, the Commission has continued to monitor the situation of Haitians who were forced to migrate to other countries as a result of the economic and political crisis affecting the country, noting as well the high rate of malnutrition, infant and maternal mortality, and mortality of individuals affected by HIV-AIDS.⁵⁵² According to public reports, it is estimated that approximately 1,600,000 individuals migrated to other countries following the 2010 earthquake;⁵⁵³ 39,000 Haitians live in the Bahamas;⁵⁵⁴ between 650,000 and 1,000,000 live in the Dominican Republic;⁵⁵⁵ and between the months of January and July, more than 8,600 Haitians arrived in Guyana with the aim of traveling to Brazil and Suriname.⁵⁵⁶ Additionally, in August, 146 Haitians tried to enter the United States aboard a cargo ship, but were intercepted at sea by the US Coast Guard.⁵⁵⁷

372. Additionally, the Commission has been monitoring the return of Haitians to their country. Following Hurricane Dorian in The Bahamas in September, The Bahamas recommenced procedures to repatriate Haitians—which had been temporarily suspended toward the beginning of the year due to the political agitation in Haiti—repatriating approximately 340 people.⁵⁵⁸ According to the Bahamian government, repatriation of Haitians will continue until all undocumented Haitians in the country are repatriated.⁵⁵⁹

373. As concerns the rights of **stateless persons**, in a press release, the IACHR welcomed Haiti's adherence to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.⁵⁶⁰ Regarding **women's rights**, the Commission took note of the persistent violence against women and the high rate of impunity in crimes committed against them. During a public hearing, civil society organizations reported that from 2016-2017, 29% of women between the ages of 15 and 29 had experienced physical violence; 12% sexual violence, 5% an act of sexual violence during the last 12 months; and 34% had been victims of an act of violence at the hands of a partner. The victims of these acts live in fear and suffer the consequences of these attacks for the rest of their lives. The lack of response by State officials continues to be an obstacle to victims being able to access justice. The organizations highlighted the trivialization of violence against women and the discrepancy between reports of violence and cases that are prosecuted, meaning that incidents tend to remain in complete impunity. They reported that 4% of the national budget is allocated to healthcare, noting as well the failure to respect and guarantee the sexual and reproductive rights of women in Haiti.⁵⁶¹

374. During a visit conducted in December 2019, the IACHR received information from State sources and from civil society on the preponderance of incidents of violence in some parts of the metropolitan area of the capital, Port-au-Prince—most of them perpetrated by different types of armed groups—and the differentiated impact this violence has on women. In this regard, the Commission received consistent information from different sectors including civil society, the United Nations, and the Ministry of Women on

⁵⁵² *The Haitian Times*, [Haitian Influx Create Hysteria In Guyana, Brazil And Suriname](#), August 5, 2019.

⁵⁵³ *The Guardian*, [Haiti and the failed promise of US aid](#), October 11, 2019.

⁵⁵⁴ Relief Web, [IOM Tracks Repatriations of Haitian Migrants from The Bahamas](#), November 15, 2019.

⁵⁵⁵ Minority Rights Group International, [World Directory of Minorities and Indigenous Peoples - Dominican Republic: Haitians](#), May 2018.

⁵⁵⁶ *The Haitian Times*, [Haitian Influx Create Hysteria In Guyana, Brazil And Suriname](#), August 5, 2019.

⁵⁵⁷ *Miami Herald*, [Coast Guard intercepts 146 Haitians at sea. But 90 more made it to the Turks and Caicos](#), August 14, 2019.

⁵⁵⁸ Relief Web, [IOM Tracks Repatriations of Haitian Migrants from The Bahamas](#), November 15, 2019.

⁵⁵⁹ Relief Web, [IOM Tracks Repatriations of Haitian Migrants from The Bahamas](#), November 15, 2019.

⁵⁶⁰ IACHR, Press Release No. 42/19, [IACHR Welcomes Actions to Protect the Right to a Nationality and to Prevent Statelessness in the Region](#), February 25, 2019.

⁵⁶¹ IACHR, Public Hearing "[reports of impunity and violence against women in Haiti](#)," February 13, 2019.

the increase in rapes perpetrated by armed groups or gangs. According to information provided by a civil society organization on the La Saline massacre, 11 women were raped.⁵⁶²

375. Regarding the **rights of the LGBTI population**, the Commission received information from Haitian civil society organizations and from the country's Office on Citizen Protection on the persistence of acts of homophobia and transphobia. Haitian LGBTI persons are frequently the targets of attacks and harassment, and the IACHR has received information on additional difficulties this community faces to obtaining protection or reporting cases of violence to the police, as well as accessing health services. This information was corroborated by testimony collected by the Commission during its visit, which included individuals describing being forced to leave their homes and move to other neighborhoods or cities due to threats, harassment, or other acts of violence and discrimination.⁵⁶³

376. The Commission monitored the events following the death of Haitian LGBTI leader Charlot Jeudy on November 25, 2019. The information it received from Haitian authorities and LGBTI activists during its country visit indicated that the cause of death had not been established. As regards the **rights of children and adolescents**, the IACHR is seriously concerned at information indicating that the rate of corporal punishment in Haiti is 85%. It continues to be a practice that is tolerated and permitted in the home due to an interpretive gap in domestic legislation, according to information from the Global Initiative to End All Corporate Punishment of Children.⁵⁶⁴

377. Additionally, it is estimated that 300,000 children—and 60% of girls and adolescent girls—are in a situation that could be compared to modern slavery. The practices of the *restavek* system (which in creole means “stay with”) persist in Haiti as a result of a social tolerance that is aggravated by the country's economic and social conditions. Children under this system are subjected to forced labor and all types of abuse, harassment, and other forms of violence.⁵⁶⁵

378. The Commission was also informed that the Haitian legislature has been considering a draft Child Protection Code since 2014, but that it has not yet been put to a vote. According to information provided by UNICEF, the text leaves out important provisions for addressing violence against children in Haiti. It remains pending while a debate is had over the need to pass a Family Code. The Commission views it as extremely important to approve a Protection Code to enshrine the principles of the Convention on the Rights of the Child and international standards on the subject in domestic legislation. It is the IACHR's understanding that the lack of a family code is not an obstacle to passing a code on protecting children.⁵⁶⁶

379. As regards **economic, social, cultural, and environmental rights**, the IACHR was able to confirm, in general terms, that the social indicators of poverty are visible in the country. It also notes the additional negative impact of months of protests that have paralyzed basic services throughout the second half of 2019. According to the information received from the Haitian State, civil society organizations, and international organizations operating in Haiti, the demonstrators' strategy is called “Operation Pays Lock.” Its aim is to paralyze all activities in the country, and it has been implemented with more intensity during the months of September and October 2019, including by blocking urban activities, interrupting the operation of schools and health services, and practically paralyzing the capital and other Haitian cities, with the direct impact on the means of subsistence of millions of people. According to information provided by the State, 4 million Haitians live with food insecurity, a situation that has been worsened by the internal blockade experienced by the country. In this context, several markets were set on fire and a large portion of the agricultural harvest was not able to reach urban centers because of the barricades throughout the country. The

⁵⁶² IACHR, Working visit to Haiti, Meeting with United Nations country team in Haiti, IACHR archive, December 17-20, 2019.

⁵⁶³ IACHR, Working visit to Haiti, Meeting with United Nations country team in Haiti, IACHR archive, December 17-20, 2019.

⁵⁶⁴ IACHR, Working visit to Haiti, Meeting with United Nations country team in Haiti, IACHR archive, December 17-20, 2019.

⁵⁶⁵ Restavek Freedom, [The issue of Restavek](#), December 2019.

⁵⁶⁶ IACHR, Working visit to Haiti, Meeting with United Nations country team in Haiti, IACHR archive, December 17-20, 2019.

accelerating increase in prices has pushed inflation to 20.1% as of September 2019, making the food situation of the poorest individuals even more critical.

380. As regards **freedom of expression**, the IACHR has noted with concern the murder of journalists Petión Rospide and Nehemie Joseph, which, along with the attacks and threats perpetrated against other members of the press, mean that in Haiti, the right to freedom of expression is not guaranteed and there is no protection for its exercise. Additionally, there is a lack of access to information, with a serious lack of clear statistics from the State. Likewise, the Commission has noted the excessive use of force to repress and disperse protests.⁵⁶⁷ During 2019, the violence triggered during the protests that began in July 2018 increased as the demonstrations broadened in response to worsening poverty, popular unrest, and the political crisis. Thus, episodes of extreme violence have been documented that once again reveal the country's institutional weakness, in which members of civil society and journalists have found themselves to be the main victims.⁵⁶⁸

HONDURAS

- **General considerations**

381. With respect to **progress** in 2019, the IACHR notes the introduction of the proposed Law for the Prevention, Attention, and Protection of Forcibly Displaced Persons to the National Congress by the Inter-institutional Commission for the Protection of Persons Displaced by Violence (CIPPDV: Comisión Interinstitucional para la Protección de las Personas Desplazadas por Violencia) for the purpose of establishing the measures necessary to protect and provide services to persons impacted by violence and to prevent forced displacement.⁵⁶⁹ The adoption of this legislative initiative would mean progress in implementing the recommendation of the IACHR in its report *Situation of Human Rights in Honduras*, produced after the 2018 onsite visit.⁵⁷⁰ In addition, the Commission salutes the Government's decision to establish a Special Roundtable for Technical Assistance (Mesa Especial de Asesoría Técnica) to support the State of Honduras in implementing the recommendations made by the IACHR in that report.⁵⁷¹

382. As regards the **challenges**, in 2019 the Commission observed with great concern the disproportionate use of force in the context of social protest. The Commission notes that after the April 25 call by the main unions in the areas of health and education for an indefinite strike to oppose the reforms provided for in the proposed Law on Restructuring and Transforming the National Health and Education System, a series of demonstrations took place in Honduras to oppose those reforms. In 2019 the Commission repeatedly expressed its concern over the acts of violence and the excessive use of force by state security agents to control and break up these social protests. In addition, the IACHR notes the marked distrust of the population towards the high-level authorities of the government and state institutions, in addition to a grave situation of poverty, citizen insecurity, and impunity in the face of corruption cases.

383. The State responded to the request for information to assist with the writing of this Chapter.

- **Specific topics**

384. As regards the **institutional framework for human rights**, the IACHR notes that the Secretariat for Human Rights has pursued various strategies for discussions with civil society, journalists, and

⁵⁶⁷ IACHR, Press Release No. R151/19, [The Office of the Special Rapporteur condemns the murder of journalist Petión Rospide and expresses its concern over the ongoing violence against journalists in the framework of the public demonstrations' coverage in Haiti](#), June 14, 2019.

⁵⁶⁸ IACHR, Press Release No. 258/19, [IACHR and its Special Rapporteurship for Freedom of Expression Concerned about Violence and Increased Political Tensions in Haiti](#), October 11, 2019.

⁵⁶⁹ Criterio.hn, [Presentan ante el Congreso de Honduras ley para prevenir y atender a personas desplazadas](#), March 27, 2019.

⁵⁷⁰ See IACHR, [Situation of Human Rights in Honduras](#), August 27, 2019, recommendation 27.

⁵⁷¹ IACHR, Press Release No. 142/19, [IACHR Ends Follow-Up Visit to Honduras](#), June 5, 2019.

judicial officers on the content of the Law on Protection for Human Rights Defenders, Journalists, Media Workers, and Judicial Officers and the Protection Mechanism, in addition to courses on human rights for public servants, including the Specialized Course on Human Rights for Public Servants, and human rights training for 2,600 members of the military.⁵⁷² In addition, the IACHR notes that the Bureau of Education in Human Rights and Culture has trained 5,413 persons from January to August 2019. According to information provided by the State, seven target groups were approached for these trainings (members of the Armed Forces of Honduras, Military Police of the Public Order, and public servants from 24 government institutions).⁵⁷³ The Commission salutes the Government's decision to establish the Special Roundtable of Technical Advisory Services (MESAT: Mesa Especial de Asesoría Técnica), which was formally adopted on November 25, 2019 in Tegucigalpa. The objective of this roundtable is to support the State of Honduras in carrying out the recommendations made by the IACHR in its report [Situation of Human Rights in Honduras](#).

385. With respect to the **democratic institutional framework**, the IACHR notes that poverty, economic inequality, and unemployment, in addition to high levels of citizen insecurity and impunity, constitute one of the main challenges standing in the way of consolidating democratic institutions in Honduras. In this respect, the IACHR finds that a marked lack of trust by citizens in their public institutions persists, mainly due to corruption cases that tie high-level government authorities to organized crime to the detriment of the democratic principle of the separation of powers and the rule of law. Among other cases, the IACHR learned on May 24, 2019 that a criminal investigation by the UFECIC-MP and the MACCIH-OAS revealed a case of money-laundering associated with international drug trafficking through 21 public works in which the Honduran State gave contracts to the company INRIMAR totaling over 68 million lempiras, most of which were not built or performed.⁵⁷⁴

386. The Commission observes that in the wake of the indefinite strike called by the health and education sectors in April 2019 two dialogues began between the Government and civil society. On June 13, the Government of Honduras installed a dialogue roundtable to address health and education; nonetheless, that dialogue roundtable did not include the participation of the Plataforma por la Defensa de la Salud y la Educación, a coalition that brings together the principal trade unions in the health and education sectors who led the national strike. The Plataforma convened its own alternative dialogue, which was installed on June 18, with the name of Diálogo Ciudadano Alternativo (Alternative Citizen Dialogue). The event, held at the facilities of the Honduran Medical Association (CMH: Colegio Médico de Honduras), was attended by representatives of the Government, teachers, physicians, health personnel in general, businesspersons, representatives of civil society for evaluating, designing, and presenting a new model for Honduras's national health and education system to the national authorities.⁵⁷⁵

387. As regards **citizen security**, the IACHR observes with concern that while the figures for homicides fell in 2018, 2019 saw an increase homicides.⁵⁷⁶ In this respect, the Observatory of Violence at the Universidad Nacional Autónoma de Honduras (OV-UNAH) indicated that 2019 would end with a homicide rate of 42.8 per 100,000 population compared to 41.4 per 100,000 population in 2018. In addition, according to the Observatory the number of feminicides also increased.⁵⁷⁷ In 2019, the IACHR observed extreme cruelty in physical, psychological, and sexual violence as well as hate crimes directed against LGBTI persons due to their

⁵⁷² Government of Honduras, [2,600 efectivos militares son capacitados en DDHH y Uso de la Fuerza](#), May 21, 2019; Government of Honduras, [SEDH continúa impartiendo Curso Especializado en Derechos Humanos para servidoras y servidores Estatales](#), January 23, 2019.

⁵⁷³ Government of the Republic of Honduras, Informe del Estado de Honduras a la CIDH, September 27, 2019.

⁵⁷⁴ OAS. Press Release Reference: C-036/19, [UFECIC-MP/MACCIH-OAS Team Presents Twelfth Case of Integrated Criminal Investigation, entitled: "Narco-politics"](#), May 24, 2019.

⁵⁷⁵ Criterio.hn, [Con el respaldo ciudadano se inaugura Diálogo Alternativo en Honduras](#), June 18, 2019.

⁵⁷⁶ Europa Press, [Honduras.- La tasa de homicidios en Honduras aumenta por primera vez tras el declive iniciado en 2012](#), December 27, 2019.

⁵⁷⁷ Radio America, [Honduras cerrará el 2019 con una tasa de homicidios mayor al 42%, estima Observatorio de la Violencia](#), November 9, 2019; Hondudiario, [Aumenta a 42.8 la tasa de homicidios por cada 100 mil habitantes en Honduras](#), December 26, 2019.

sexual orientation, gender expression/identity, or their sexual characteristics. In July 2019 the Commission repudiated the high levels of violence against trans persons in Honduras.⁵⁷⁸

388. As regards **social protest**, the IACHR learned that since the call for an indefinite strike by the health and education sectors in April 2019 civil society organizations reported at least 364 demonstrations during the months that saw the greatest concentration of social protest.⁵⁷⁹ In May 2019 the Commission learned of a series of mobilizations in several cities of Honduras that resulted in serious acts of violence. The IACHR noted that these included several persons being injured as a result of the use of tear gas, on May 30, when security forces attempted to dislodge demonstrators who had blocked the main streets of Tegucigalpa and the area around the Toncontín airport. In addition, several press outlets reported that three demonstrators suffered gunshot wounds at the hands of the were wounded by security forces in different demonstrators held outside the capital city.⁵⁸⁰

389. On July 3, 2019 the IACHR expressed its concern over the acts of violence that occurred on June 19 and 20 as a result of which three civilians lost their lives and at least 19 were wounded in the context of the demonstrations. In addition, the Commission learned that on June 20 the National Security and Defense Council announced a joint military and police deployment to control the demonstrations. On June 24, in an operation by police and military forces at the Universidad Autónoma de Honduras, it was alleged that excessive use of force resulted in at least three students suffering gunshot wounds.⁵⁸¹ During the public hearing [Violence and Security in the context of social protests in Honduras](#), held during the Commission's 173rd period of sessions, the civil society organizations indicated that from March to July 2019 there were at least nine deaths, 88 persons wounded by lead bullets, pellets, and/or tear gas, more than 200 persons criminalized, 71 arbitrary arrests, 14 persons victims of torture, and eight human rights defenders being held in pretrial detention.⁵⁸²

390. As regards **access to justice**, the IACHR notes that the independence and impartiality of judges and prosecutors continues to be the main challenge facing the Honduran judicial system. The Commission observes that procedural delays and impunity in the administration of justice, especially in corruption cases, have deepened citizen distrust of the high-level judicial authorities and the institutions of the judicial branch. The IACHR notes that on April 24, 2019, the Asociación de Jueces por la Democracia (Association of Judges for Democracy) issued a communique rejecting the statements of the President of Honduras that called into question a judgment handed down by the Court of Judgments of the National Jurisdiction (Tribunal de Sentencia de Jurisdicción Nacional).⁵⁸³ Similarly, in August the United Nations rapporteur on the independence of judges and lawyers in his visit to Honduras, warned about the interference of the executive and legislative branches in the Honduran judicial system, particularly in the Supreme Court.⁵⁸⁴ In this regard the IACHR reiterates that for there to be full enjoyment of human rights it is essential that Honduras make progress in its democratic institutional framework, guarantee genuine separation of powers, and strengthen the rule of law. The IACHR highlights the role that the MACCIH has continued to play in the struggle against corruption and impunity. In the course of 2019 several cases investigated by this mission were uncovered.⁵⁸⁵ In this respect, the IACHR notes that a coalition of organizations for the renewal of the MACCIH's

⁵⁷⁸ IACHR, Press Release 176/19, [IACHR Condemns Violence against Trans Persons in Honduras](#), July 18, 2019.

⁵⁷⁹ COFADEH, [Informe preliminar. Manifestaciones pacíficas y violaciones a derechos humanos en el contexto de la crisis de salud y educación](#), June 2019.

⁵⁸⁰ IACHR, Press Release No. 143/19, [IACHR Expresses Concern over Acts of Violence during the Education and Healthcare Strike in Honduras](#), June 6, 2019.

⁵⁸¹ IACHR, Press Release No. 169/19, [IACHR Expresses Concern over Situation in Honduras and Calls on State to Guarantee Rights to Protest and Peaceful Assembly, in Accordance with Inter-American Standards](#), July 3, 2019.

⁵⁸² IACHR, [Annex, Press Release 173rd Period of Sessions](#), October 4, 2019.

⁵⁸³ El Heraldo, [Asociación de Jueces por la Democracia: "Señalamientos son una injerencia a la independencia"](#), April 25, 2019; El Condencial HN, [Jueces exigen al gobierno de Honduras respeto a la independencia judicial](#), April 24, 2019; Asociación de Jueces por la Democracia, [Ante declaraciones del presidente Juan Orlando Hernández, exigimos respeto a la independencia judicial](#), April 24, 2019.

⁵⁸⁴ OHCHR, [Observaciones preliminares sobre la visita oficial a Honduras](#), August 22, 2019.

⁵⁸⁵ El Heraldo, [Los 12 casos de corrupción destapados en Honduras por la MACCIH](#), May 24, 2019.

mandate urged that it be renewed without the need for a new agreement.⁵⁸⁶ Nevertheless, on January 17, 2020, it was announced that, following negotiations between the Government of Honduras and the General Secretariat of the Organization of American States, the two parties failed to reach an agreement on renewal of the MACCIH mandate and its functions would terminate on January 19.⁵⁸⁷ The IACHR regrets the termination of the MACCIH mandate before it had consolidated its position and the negative impact this may have on efforts to combat impunity and corruption in Honduras.

391. As regards **persons deprived of liberty**, on December 26, 2019, the IACHR and OHCHR-Honduras issued a communiqué stating that they were profoundly disturbed to hear of the violent deaths in December of at least 46 inmates, including 4 adolescents, and of numerous people wounded, and they called upon the State of Honduras to protect the lives and safety of persons deprived of liberty in penitentiaries and educational centers. In their communiqué, the two bodies pointed out that the events took place after the State of Honduras had declared a state of emergency in the national penitentiary system, via Executive Decree PCM-068-2019 of December 16, 2019. Through that declaration, an Intervention Commission comprised of representatives of the National Interagency Security Force (FUSINA) was installed, with power to intervene the National Penitentiary System for six months, including the principal institutions in charge of that System. The IACHR and OHCHR urged the State of Honduras to comply with its international human rights obligations and to review the compatibility of the decree declaring a national emergency in the National Penitentiary System with international human rights standards and the recommendations made to Honduras by inter-American and international bodies for the protection of human rights.

392. With respect to **human rights defenders**, the Commission notes that assassinations of defenders of the land, territory, and environment have continued. In this respect, the IACHR expressed its repudiation of the assassination of indigenous defender Salomón Matute, a beneficiary of precautionary measures granted by the IACHR, and his son.⁵⁸⁸ In addition, on June 14 the IACHR decided to grant precautionary measure in favor of the members of the Organización Jóvenes Promotores y Defensores de los Derechos Humanos (JOPRODEH). The request for precautionary measures alleges that the young leaders are at risk after alleged acts of violence, intimidation, and harassment against them, purportedly related to their work as human rights defenders.⁵⁸⁹ In addition, the Commission observes with profound concern that campaigns persist to criminalize and harass social leaders from the community of Guapinol. On August 26, 2019, seven defenders of the environment and members of the Comité de Defensa de los Bienes Comunes y Públicos en Tocoa were deprived of liberty accused of “usurpation and harm,” “arson,” unjust deprivation of liberty,” “aggravated robbery,” and “illicit association.” Previously, in February 2019, 13 defenders of the community were unjustly imprisoned and prosecuted until their innocence was recognized.⁵⁹⁰ Finally, the IACHR observes that the stigmatization and de-legitimation of the legitimate work of human rights defenders continue in social networks and media outlets. Among other cases, the Commission received information according to which on March 7 a picture of defenders Wilfredo Méndez, Edy Tábora, and Reina Rivera smeared with blood was published in social networks, accusing them of working “only to defend criminals and the corrupt.”⁵⁹¹

393. Regarding the investigation into the murder of human rights defender Berta Cáceres on November 29, 2018, the First Chamber of the Sentencing Court convicted 7 people as the perpetrators and

⁵⁸⁶ Criterio, [Coalición por la Renovación de la MACCIH dice “No a un Convenio Nuevo”](#), January 6, 2020.

⁵⁸⁷ OAS, Press Release No. C-003/20, [Comunicado de la Secretaría General de la OEA sobre la finalización de la MACCIH](#), January 17th, 2020.

⁵⁸⁸ IACHR, Press Release No. 053/19, [IACHR Condemns Murder of Indigenous Tolupan Precautionary Measure Beneficiary and his Son in Honduras](#), March 1, 2019.

⁵⁸⁹ IACHR, Press Release No. 288/19, [IACHR and UN Human Rights Presences Once Again Call for the Creation of a Safe, Favorable Environment for Human Rights Defenders in the Americas](#), November 7, 2019.

⁵⁹⁰ CEJIL, [CEJIL: Condenamos la criminalización de personas defensoras de derechos humanos y bienes naturales de Guapinol](#), August 30, 2019.

⁵⁹¹ Comité por la Libre Expresión, [Persiste desprestigio contra defensores, entre ellos Director de C-Libre](#), March 12, 2019.

accomplices in the murder of the human rights defender. On December 2, 2019, that Court handed down sentences of between 30 and 50 years in prison for those convicted. The IACHR notes, however, that only one person has been arrested as an alleged instigator of the murder: an executive of the Desarrollos Energéticos Sociedad Anónima (DESA) company, who is currently under investigation. The IACHR reiterates that justice for the victims will only be effective and comprehensive when all the perpetrators and instigators of the crimes have been brought to trial and convicted.

394. On July 12, 2019, the IACHR expressed its concern over the publication of the new Criminal Code, in particular in relation to the crime of “usurpation” (“*usurpación*”), due to the lack of precision regarding the intent required such that its current ambiguous formulation increases the discretion of judicial officers to make improper use of this criminal statute to the detriment of human rights defenders. Indeed the IACHR and the OHCHR have observed such use in proceedings to criminalize human rights defenders in Honduras.⁵⁹²

395. As regards the rights of **LGBTI persons**, the IACHR has monitored, with serious concern, the increasing number of acts of violence against this community. According to available information, 90% of the crimes against LGBTI persons in Honduras remain in impunity.⁵⁹³ As of July, according to the information received, there were 21 violent deaths of LGBTI persons in Honduras.⁵⁹⁴ The Commission took note of the assassination of Santi Carbajal, director of the local television program “La Galaxia de Santi,” Antonia Lainez, and [Bessy Ferrera](#), a defender of the rights of LGBTI persons.⁵⁹⁵ The IACHR note that in the crime against Bessy the police have identified and arrested the persons allegedly responsible.

396. As regards **Afrodescendent and Garifuna persons**, the IACHR states its profound concern over the harassment, assassinations, and other forms of violence against members of the Garifuna community in Honduras, particularly of social leaders. In the course of 2019 the IACHR notes that at least five assassinations have been reported of women members of Garifuna communities.⁵⁹⁶ On September 24 the Commission condemned the prevalence of assassinations and other forms of violence against Garifuna women in Honduras and urged the State to order comprehensive protective measures, individual and collective, incorporating the ethnic-territorial and gender approach in addressing this pattern of violence.⁵⁹⁷

397. The IACHR also takes note of the State’s efforts in relation to the judgments of the Court on the communities of Triunfo de la Cruz⁵⁹⁸ and Punta Piedra⁵⁹⁹ at the same time as it expresses its concern over the failure to make the reparations provided for in those judgments.⁶⁰⁰ In addition, the Commission received information on the development of tourism projects and agricultural activities in the territories of the Garifuna

⁵⁹² IACHR, Press Release No. 174/19, [IACHR and OHCHR Express Concern over the Provisions of the Criminal Code in Honduras and Call for a Review in Accordance with International and Inter-American Human Rights Standards](#), July 12, 2019.

⁵⁹³ DW, [Al menos 325 personas LGBTI asesinadas en Honduras desde 2009](#), July 15, 2019.

⁵⁹⁴ DW, [La ONU condena los asesinatos de personas LGBTI en Honduras](#), July 16, 2019.

⁵⁹⁵ IACHR, <https://www.oas.org/es/cidh/prensa/comunicados/2019/176.asp>, July 18, 2019.

⁵⁹⁶ See La Vanguardia, [Asesinan a una líder garífuna y presidenta de un Patronato en Honduras](#), September 9, 2019; Orinoco Tribune, [Four Garifuna Women Killed in Three Days. Terror in Honduras](#), September 10, 2019; La Prensa, [Matan a madre e hija garífunas en Colón](#), September 6, 2019; Tiempo Digital, [Mujeres protestan exigiendo justicia para garífuna asesinada en Sambo Creek](#), January 31, 2019; El Heraldo, [Cuatro mujeres fueron asesinadas en Honduras en menos de 24 horas](#), January 29, 2019; IACHR, Press Release, No. 238/19, [IACHR condemns the prevalence of murders and other forms of violence against Garifuna women in Honduras](#), September 24, 2019.

⁵⁹⁷ IACHR, Press Release No. 238/19, [IACHR condemns the prevalence of murders and other forms of violence against Garifuna women in Honduras](#), September 24, 2019.

⁵⁹⁸ I/A Court HR, [Case of the Community Garifuna Triunfo de la Cruz and its members v. Honduras. Merits, Reparations and Costs](#). Judgment of October 8, 2015. Series C No. 305.

⁵⁹⁹ I/A Court HR, [Case of the Garifuna Punta Piedra Community and its members v. Honduras. Preliminary Objections, Merits, Reparations and Costs](#). Judgment of October 8, 2015. Series C No. 304.

⁶⁰⁰ IACHR, [Situation of Human Rights in Honduras](#). OEA/Ser.L/V/II. Doc. 146, 27 August 2019, pp. 104-107.

communities without the corresponding prior, free, and informed consultation.⁶⁰¹ The Commission notes that as stipulated in ILO Convention 169, it is an obligation of the State to engage in a prior, free, informed, and culturally appropriate consultation prior to any productive activity in the territories inhabited by indigenous and tribal Afrodescendent peoples.

398. Finally, the IACHR underscores the differential impact of poverty and extreme poverty on the population in general and especially on the social groups historically impacted by poverty. Official data indicate that 61.85% of the population lives in poverty; of these, 23.13% are below the poverty line while 38.72% are living in extreme poverty.⁶⁰² The Commission highlights the need to have disaggregated statistics that make it possible to learn of the evolution of this issue in the most vulnerable social groups. The most recent information, published in 2014, indicated that 72% of the members of indigenous and Afrodescendent peoples were living in extreme poverty and 12% in poverty.⁶⁰³ The IACHR calls on the State to draft public policies that consider this particular situations.

399. In terms of the **rights of internally displaced persons**, the Commission has learned of the displacement of human rights defenders in the municipality of Tocoa (Bajo Aguán) as a result of the harassment and criminalization of demonstrators who oppose the implementation of mining projects. Considering the seriousness of the facts the Commission requested information from the State of Honduras pursuant to Article 41 of the American Convention.⁶⁰⁴ In response to the request for information the State made reference to various measures adopted to protect the life and physical integrity of the persons who oppose the project and to guarantee a state response to internal forced displacement.⁶⁰⁵ Among those measures, the State mentioned the adoption of the Manual of the Mechanism of Humanitarian Assistance in Emergency Situations, whose purpose is to grant immediate protection to internally displaced persons, and on the proposed law on internal displacement for preventing displacement and attending to and protecting internally displaced persons is under consideration.⁶⁰⁶

400. In a press release the Commission expressed its concern over the situation of **migrants and refugees** in Honduras who join caravans headed to Mexico and the United States. In this respect, the IACHR received information on the use of force by the police to the detriment of one of these caravans, and on the obstacles that it faced in order to leave the country, such as cordons formed by security agents and police filters to request identification documents at points along the border.⁶⁰⁷ The Commission views with concern the situation of the 86,926 Hondurans who were deported due to their irregular status in Mexico and the United States.⁶⁰⁸ In addition, the Commission is also concerned about the limitations on the right to request asylum that may result from the agreement entered into by Honduras and the United States, which establishes that those persons requesting refugee status who have passed through Honduras –without seeking asylum there – to reach the United States will be returned to Honduras.⁶⁰⁹

⁶⁰¹ Meeting with representatives of indigenous and Afrodescendent peoples and civil society organizations, October 24, 2019, Tegucigalpa.

⁶⁰² National Institute of Statistics, Honduras. [Indicadores cifras de país 2018](#), 2019.

⁶⁰³ General Bureau for the Development of the Indigenous and Afrodescendent Peoples (DINAFROH), [National Policy against Racism and Racial Discrimination \(PNCRRD\) 2014-2022](#), 2014, p. 17.

⁶⁰⁴ IACHR, Letter of Request for Information of April 5, 2019.

⁶⁰⁵ Government of the Republic of Honduras, Secretariat of Foreign Affairs and International Cooperation, Note No. 216/DGPE/DPM-19, June 6, 2019.

⁶⁰⁶ Government of the Republic of Honduras, Secretariat of Foreign Affairs and International Cooperation, Note No. 216/DGPE/DPM-19, June 6, 2019.

⁶⁰⁷ IACHR, Press Release No. 037/19, [IACHR Urges Honduras and Guatemala to Guarantee the Rights of People in the Migrant and Refugee Caravan](#), February 19, 2019.

⁶⁰⁸ La prensa, [Unos 87 mil hondureños han sido retornados, 47% más que en 2018](#), October 7, 2019.

⁶⁰⁹ BBC, [Crisis migratoria: Honduras acepta recibir a solicitantes de asilo deportados por EE.UU.](#), September 26, 2019.

401. As regards **freedom of expression**, in 2019 the persistence of high levels of violence against journalists was observed, including several assassinations. The IACHR notes that impunity in most of the crimes continues to be a serious problem for engaging in journalism and exercising the right to freedom of expression in Honduras. In addition, several media workers and journalists left the country in the wake of death threats. As regards provisions contained in the new Criminal Code related to freedom of expression and freedom of the press, the IACHR and the Office of the Special Rapporteur for Freedom of Expression, along with the OHCHR, expressed their concern, among other things, about the statutes on “criminal arising in crimes committed through media outlets,” for maintaining criminal statutes on slander and libel (“*injuria*” and “*calumnia*”), and for criminalizing the “concept of publicity”). In addition, it expressed its concern regarding the adoption of the crime of “taking advantage of secret or privileged information” (“*aprovechamiento de secreto o información privilegiada*”) and the crimes of “espionage” and “public disorder.” On this last point, the IACHR and its Office of the Special Rapporteur for Freedom of Expression and the OHCHR observed that the current formulation would improperly criminalize the exercise of the right to public protest, and could negatively impact the effective exercise of the right to freedom of expression. With respect to the provisions that could have a negative impact on the effective exercise of the freedoms of peaceful assembly and association, the IACHR expressed its concern over the adoption of criminal statutes regarding “unlawful assemblies and demonstrations,” “association to engage in criminal conduct,” “disturbance of order,” and “terrorist association.” On this last offense, it is observed that as it appears in the new Code, the definition of terrorist association is excessively broad and could lead to the criminalization of a wide array of forms of conduct that do not merit being characterized as terrorism in light of the international case-law and human rights standards.⁶¹⁰

JAMAICA

- **General considerations**

402. With regard to **progress**, the IACHR highlights the measures taken by the State of Jamaica to address citizen security challenges. The Commission also takes note of the positive measures adopted to address the backlog in the judicial system and guarantee access to justice. Additionally, the IACHR underscores the government’s efforts to guarantee the rights of persons deprived of liberty and modernize the country’s Department of Correctional Services.

403. As regards **challenges**, the IACHR took particular note of the high murder rate and the reestablishment of a state of public emergency in Jamaica. Additionally, the Commission takes note of the challenge surrounding the debate over decriminalizing abortion in the country and the persistence of a law in Jamaica criminalizing consensual sexual relations between adults of the same sex.

404. The State responded to the request for information sent to prepare this chapter.

- **Specific issues**

405. Regarding the crosscutting theme of **human rights institutions**, it should be noted that the country has an Office of the Public Defender of Jamaica),⁶¹¹ which is a member of the Caribbean Ombudsman Association (CAROA) and the Commonwealth Forum of National Human Rights Institutions.⁶¹² The institution’s role is to investigate complaints submitted by individuals who believe they have been harmed by the State or a State entity.⁶¹³ The IACHR has taken note that the Ministry of Justice, through the Legal Reform Department,

⁶¹⁰ IACHR, Press Release No. 174/19, [IACHR and OHCHR Express Concern over the Provisions of the Criminal Code in Honduras and Call for a Review in Accordance with International and Inter-American Human Rights Standards](#), July 12, 2019.

⁶¹¹ [Office of The Public Defender of Jamaica](#)

⁶¹² [Commonwealth Forum of National Human Rights Institutions](#).

⁶¹³ For more information, see the official webpage at: <http://www.opd.gov.jm/about-us/our-role>.

has made progress on analyzing the legislative reforms needed to establish the National Human Rights Institute, a commitment that remains pending.⁶¹⁴

406. The IACHR highlights that an Inter-ministerial Committee on Human Rights has been operating since 2018. Its mandate is to collaborate on developing a national human rights plan, review the recommendations made by international treaty bodies, and develop strategies to move toward their implementation.

407. With regard to **citizen security**, the IACHR recognizes the measures taken by Jamaica to address citizen security challenges in the country. According to the information sent by the State, the government has made changes to several laws related to security. Specifically, a Joint Select Committee began a review of the 2014 Criminal Justice (Suppression of Criminal Organisations) Act, popularly called the “Anti-gang Law.” This law was developed in response to the growing presence of criminal organizations known as gangs in Jamaica. The objective of the review is to evaluate the legislation’s effectiveness and determine if new provisions are needed to support investigators and prosecutors in their struggle against organized crime.⁶¹⁵

408. The State also reported that the Commissioner of Police has launched an initiative to restructure the Jamaican Constabulary Force (JCF). In this text, the Police Inspectorate has been renamed the Inspectorate and Professional Standards Oversight Bureau (IPROB) and will work with other key stakeholders to develop and maintain professional standards for the JCF. According to the information provided by the State, the Ministry of National Security is currently in the process of developing the Application Act (integrity protection). This law will set operating standards for all individuals involved in law enforcement activities.⁶¹⁶

409. Additionally, the government reported that it had adopted a multisector and community approach with the aim of improving security by implementing the Citizen Security Plan. The State also aims to modernize the 1967 Firearms Act to regulate the use of guns in the country. According to available information from the JCF, approximately 8 of every 10 murders reported in the country involve the use of a firearm. According to the statistics, the total number of shootings increased by 7.3%, to 1,064 incidents in 2019, compared to 992 in 2018.⁶¹⁷

410. The IACHR expresses concern at the high crime rates in Jamaica and the State’s declaration of a State of Public Emergency in different parts of the country. According to official statistics, Jamaica’s murder rate is approximately 47 per 100,000 residents, almost three times the average for Latin America and the Caribbean.⁶¹⁸ The homicide rate has increased by an average of 4.4% per year over the last five decades.⁶¹⁹ Also, the Independent Commission of Investigations (INDECOM)—the Parliamentary body established to investigate abuses committed by State agents—reported that between January 2 and August 2019, there had been 57 fatal shootings associated with the JCF.⁶²⁰

411. Regarding the State of Emergency (SOE), the IACHR observes with concern that it continued in 2019 as part of the government’s attempt to combat the high crime rates that persist in some of the country’s communities. The state of emergency grants security forces additional temporary authorities—including search authorities; cuts hours of operations for businesses; restricts access to certain places; and allows detention without a court order. Jamaica issued two state of emergency declarations in 2019. The first, on April 30, was when the Prime Minister announced a state of emergency for the communities of Westmoreland,

⁶¹⁴ Attorney General’s Office of Jamaica Input of Jamaica for the Inter-American Commission on Human Rights. Annual Report 2019

⁶¹⁵ Government of Jamaica, Information for Chapter IV-A of the 2019 Annual Report, IACHR archive, December 2019, pg. 24-25.

⁶¹⁶ Government of Jamaica, Information for Chapter IV-A of the 2019 Annual Report, IACHR archive, December 2019, pg. 25.

⁶¹⁷ Government of Jamaica, Information for Chapter IV-A of the 2019 Annual Report, IACHR archive, December 2019, pg. 26.

⁶¹⁸ Jamaica Information Service, “[PM’s Statement to Parliament on the expiration of the States of Emergency](#),” January 8, 2019.

⁶¹⁹ United Nations Office on Drugs and Crime, [Global Study on Homicide 2019](#), pg. 27.

⁶²⁰ INDECOM Jamaica, “[2019-Security Forces Related Fatal Shootings](#),” August 2019.

Hanover, and St. James;⁶²¹ and the second was for the south of San Andres on July 7, 2019.⁶²² Parliament also voted to extend them, with the Senate approving a 90-day extension of the state of emergency in Westmoreland, Hanover, and St. James until October 28, 2019.⁶²³ For these communities, a new 3-month extension was approved.⁶²⁴ Likewise, the Parliament also approved extension of the SOE in Clarendon and St. Catherine until October 19, 2019.⁶²⁵ Additionally, on October 2 and 4, 2019, Parliament approved an extension of the SOE in the St. Andrew South Police Division until January 4, 2020.⁶²⁶

412. In this context, the IACHR recalls that states of emergency should be declared only in exceptional cases and in accordance with the fundamental laws establishing the framework for their adoption: Specifically, the necessity and proportionality of the measure to guarantee that it not extend over a long period of time, be disproportionate, or involve the misuse or abuse of power, affecting the exercise and enjoyment of the rights and guarantees related to the international obligations taken on by the State.

413. As regards **access to justice and judicial independence**, the IACHR recognizes the State's efforts to resolve the backlog in the judicial system. In this regard, in March 2019, Jamaica's Minister of Justice recognized the problem and reiterated his commitment to addressing the judicial backlog: Specifically, by ensuring that trials or hearings are held within the time period set forth by law, and that, in 2020, judgments following the conclusion of cases are issued within 90 days (or, in exceptional cases, 180 days). According to the Minister of Justice, in 2017 and 2018, the courts processed 71% and 94% of cases, respectively.⁶²⁷

414. It is the Commission's view that the adoption of these measures is important for guaranteeing effective judicial protection. However, the remaining challenges are still concerning. In this regard, in order to fully eliminate the backlog in the judicial system and return to normal and regular processing levels, the courts must be processing cases at a rate higher than 100 per every 100 new cases—ideally, a rate of 130 over the next six years.⁶²⁸

415. With regard to judicial independence, in June 2019, the government approved an increase in the salary of community judges to guarantee the independence of the judicial branch.⁶²⁹ The government also reported that funds had been allocated to increase access to justice through legal aid. Thus, for the 2018-2019 fiscal year, the government raised the legal aid budget by 17.3% compared to the previous year. This increase has enabled 2,484 cases before local courts to benefit from legal aid services.⁶³⁰ Legal aid was also provided in the form of representation by an attorney to 2,821 people who were not able to pay the legal fees. It was also reported that the Ministry of Justice provided legal aid to 385 individuals with mental illnesses.⁶³¹

⁶²¹ Jamaica Information Service, "[States of Public Emergency Declared in St. James, Westmoreland and Hanover](#)," April 30, 2019.

⁶²² Jamaica Information Service, "[PM Announces State of Emergency for South St. Andrew](#)," July 7, 2019.

⁶²³ Jamaica Information Service, "[Senate Approves 90-day Extension of States of Public Emergency in Three Western Parishes](#)," July 28, 2019.

⁶²⁴ Jamaica Information Service, "[House Approves Extension Of SOEs In St. James, Westmoreland and Hanover](#)," October 16, 2019.

⁶²⁵ Jamaica Information Service, "Senate", September 20, 2019.

⁶²⁶ Jamaica Information Service, "[House approves extension of the SOE in South St. Andrew](#)," October 2, 2019. Jamaica Information Service, "[Senate Approves Extension of SOE Pin South St. Andrew](#)," October 5, 2019.

⁶²⁷ 1Jamaica Information Service, "[Chief Justice of Jamaica, Hon. Mr. Justice Bryan Sykes OJ, CD: Address to the Nation](#)," March 10, 2019. Also see RJR News, "[Courts on track to eliminating case backlog-Sykes](#)," September 23, 2019.

⁶²⁸ Jamaica Information Service, "[Chief Justice of Jamaica, Hon. Mr. Justice Bryan Sykes OJ, CD: Address to the Nation](#)," March 10, 2019.

⁶²⁹ Government of Jamaica, Information for Chapter IV-A of the 2019 Annual Report, IACHR archive, December 2019, pg. 7.

⁶³⁰ Government of Jamaica, Information for Chapter IV-A of the 2019 Annual Report, IACHR archive, December 2019, pg. 23.

⁶³¹ Government of Jamaica, Information for Chapter IV-A of the 2019 Annual Report, IACHR archive, December 2019, pg.

416. Additionally, according to the information provided by the State, it was committed to strengthening the court system's infrastructure. During 2019, the government began—through the Ministry of Justice—the construction, renovation, or remodeling of 43 justice institutions, including local courts. The government reported that the construction of 3 new hearing rooms and 14 judges' chambers. This has led to an increase in the number of cases processed.⁶³²

417. At the same time, the government has also executed a program called "Restorative Justice," implemented by the Ministry of Justice, with the aim of helping reduce the recidivism rate. In March 2019, 1,125 restorative justice meetings were held. The program brings victims, perpetrators of crimes, and members of the community together with trained facilitators to seek alternative solutions to the conflict. This has led to successfully reaching 1,005 agreements between victims and perpetrators, meaning 89% of cases with peaceful resolutions.⁶³³

418. As regards **persons deprived of liberty**, the Department of Correctional Services has introduced electronic systems for managing the cases of detained adolescents with the aim of increasing the efficiency and effectiveness of its management of the juvenile population.⁶³⁴ The Government of Jamaica also reported that it had begun to develop a policy for handling the perpetrators of crimes and that it would work to amend laws by modernizing the legislative framework governing the operations of the Department of Correctional Services, including by amending the 1985 Corrections Act and the 1978 Parole Act.⁶³⁵

419. The government has also implemented a program of social reintegration. Specifically, it has implemented a program called "We Transform" to help give children in the Department of Correctional Services more skills and abilities to change their lives and prepare them for social reintegration upon release. Among other things, the program provides access to training, tutoring, internships, sports, and the arts. Additionally, adult inmates receive academic training under a social reintegration program. This includes 77 adults who are participating in outside exams.⁶³⁶

420. As regards the **death penalty**, the IACHR finds it worrisome that it is still on the books in the country's laws, even though no executions have been carried out in recent years. The Commission notes, moreover, that, as of December 2018, there was no one in the State sentenced to the death penalty, according to Amnesty International's report on the subject of April 2019.⁶³⁷

421. With regard to the **reproductive rights of women**, the IACHR took note of the commencement of the debate on the decriminalization of abortion and the provision of access to pregnancy termination services that are safe and regulated for cases of rape and incest. The debate on this issue was postponed several times by the Parliament's Human Resources and Social Development Committee.⁶³⁸ For its part, the IACHR expresses concern that, under the Offences against the Person Act, abortion is punished with life in prison.⁶³⁹ The Commission highlights the negative impact of laws that criminalize abortion under all circumstances on the rights to life, humane treatment, and health, as well as on the rights of women to live free from violence and discrimination. In this regard, it calls on the State to adopt legislation aimed at guaranteeing women the effective exercise of their sexual and reproductive rights in the understanding that denying

⁶³² Government of Jamaica, Information for Chapter IV-A of the 2019 Annual Report, IACHR archive, December 2019, pg. 21.

⁶³³ Government of Jamaica, Information for Chapter IV-A of the 2019 Annual Report, IACHR archive, December 2019, pg. 22.

⁶³⁴ Government of Jamaica, Information for Chapter IV-A of the 2019 Annual Report, IACHR archive, December 2019, pg. 31.

⁶³⁵ Government of Jamaica, Information for Chapter IV-A of the 2019 Annual Report, IACHR archive, December 2019, pg. 25.

⁶³⁶ Government of Jamaica, Information for Chapter IV-A of the 2019 Annual Report, IACHR archive, December 2019, pg. 31.

⁶³⁷ Amnesty International, [Global Report: Death Sentences and Executions](#), April 2019, p. 14.

⁶³⁸ Petchary's Blog, [Partnership for Women's Health Concerned by Parliamentarians' Perceived Lack of Interest in Abortion Debate](#) July 5, 2019.

⁶³⁹ The Offences Against the Persons Acts, Cap. 269.

voluntary pregnancy termination under certain circumstances constitutes a violation of the fundamental rights of women, girls, and adolescents.

422. The situation of the rights of **LGBTI persons** in Jamaica continues to be complex because of the persistence of laws that criminalize consensual sexual activity between adults of the same sex, according to the Commission's 2018 Annual Report.⁶⁴⁰ Additionally, the IACHR monitored the cancellation of the LGBTI pride march in the city of Montego Bay over security concerns after a city councilor stated that the government would not be able to provide public spaces to "promote same-sex marriage."⁶⁴¹

MEXICO

- **General considerations**

423. Regarding **progress** in 2019, the IACHR welcomed the various measures taken by the Mexican State on human rights. These include the steps forward with regard to the State's recognition of the humanitarian crisis that is the disappearance of persons. The IACHR also notes the beginning of operations of the National Search Commission and the approval of the agreement to create the Extraordinary Forensic Identification Mechanism. The passage of the National Use of Force Act and the National Registry of Detentions Act were also noted, along with the National Public Security System.⁶⁴² The IACHR also welcomes the jurisprudence progress on adoption by same-sex couples; the passage of the law on access to a life free from violence against women; the training program for public security agents acting in situations involving children and adolescents; the adoption of the Protocol for Attending to the Indigenous Population with a gender and intercultural approach; and the more than 47,000 cases of migrating children attended to, as well as the multiple laws found unconstitutional for violating the principle of equal protection, finding that regulating migration is a competency of the federal government.

424. Regarding **challenges**, the high numbers of disappeared persons and murders without a proper investigation remain particularly concerning, and these aspects reflect the challenges regarding citizen insecurity facing the State. The Commission observes that the creation and implementation of the National Guard has not alleviated concerns regarding the militarization of domestic security work. The IACHR also views the broadening of grounds pretrial detention without a court order to include new alleged criminal acts to be regressive. It should also be noted that several institutions and mechanisms provided for with the creation of the National Search System have not been created or implemented. Changes to domestic security and the use of force have also raised concerns with regard to the transparency of information on operations using lethal force and the legitimacy of restrictions to rights and civil liberties that new laws have ushered in. Additionally, the Commission remains particularly concerned at the special situation of risk facing women; children and adolescents and their involvement in organized crime; the migratory detention of more than 108,000 migrants in transit; and threats against and murders of indigenous leaders, human rights defenders, and journalists.

425. The State responded to the request for information sent to prepare this chapter.

- **Specific issues**

426. In the area of **human rights institutions**, the State indicated that in 2019, the President of the National Human Rights Commission (CNDH) was elected, pursuant to the requirements of the Constitution. The election took place with all due guarantees of transparency, and Mexican activist Rosario Piedra Ibarra was elected.⁶⁴³ Civil society organizations have questioned the process to select the slate of three candidates for the

⁶⁴⁰ IACHR, [Annual Report 2018](#), para. 306.

⁶⁴¹ *Washington Blade*, "[Security concerns prompt Montego Bay Pride cancellation](#)," September 21, 2019.

⁶⁴² The IACHR notes for the record that the constitutionality of these laws is being challenged in a process before the Supreme Court of Justice of the Nation.

⁶⁴³ Report of the Mexican State, Chapter IV of the Annual Report of the Inter-American Commission on Human Rights (IACHR), November 19, 2019, pg. 4.

CNDH presidency due to its alleged lack of technical criteria and transparency,⁶⁴⁴ and the election itself was questioned due to the selected individual's close ties to the Executive and the vote count.⁶⁴⁵ *Amparo* appeals have thus been filed to challenge the election process.⁶⁴⁶ The IACHR reminds the State of the necessity and importance to ensure pluralist representation in the selection of ombudspersons, and that these offices not be exclusively subordinate to the Executive Branch in order to fully guarantee their independence.⁶⁴⁷

427. Elsewhere, the Commission appreciates that the National Counsel for the Prevention of Discrimination (CONAPRED) has developed the National System on Discrimination (SINDIS), a virtual instrument that provides objective, historical, and verifiable information on discrimination and contributes important inputs toward monitoring progress in fulfilling the right to equal protection and nondiscrimination in Mexico.⁶⁴⁸ The IACHR likewise welcomes the deposit, on January 21, 2020, of the respective instruments of ratification of the Inter-American Convention against Racism, Racial Discrimination, and Related Forms of Intolerance and the Inter-American Convention against All Forms of Discrimination and Intolerance.

428. Regarding **democratic institutions**,⁶⁴⁹ the State reported the creation of the National Guard as the result of a process of consultation with national experts, national and international human rights organizations, academics, and members of civil society. The State highlighted that the National Guard is governed by the guiding principles of respect for human rights, and its members will be regularly trained on use of force and gender equality. It also indicated that the National Guard may act to assist and coordinate with migration authorities, but that it will not replace their functions. Currently, 25,000 National Guard officials are operating on Mexico's southern and northern borders.

429. The IACHR observes that the State is undergoing an important transformation on domestic security. This has led to constitutional changes⁶⁵⁰ and the adoption of new laws in this area.⁶⁵¹ In the framework of this process, the IACHR has also learned of serious questions about the approach and security model used, reflected in the constitutional challenge process that the National Human Rights Commission has brought against the laws passed. Likewise, international and civil society organizations have warned that the military paradigm maintained in the security policies;⁶⁵² the broad authority of the National Guard to investigate crimes, including by wiretaps and migration control;⁶⁵³ and its composition, based on provisional laws, is eminently that of soldiers.⁶⁵⁴ In this regard, the IACHR reiterates the State's international obligations on domestic security

⁶⁴⁴ Article 19 and FUNDAR, #CNDHAutónoma, [Pronunciamiento: terna para definir la presidencia de la CNDH responde a acuerdos cupulares](#), October 30, 2019.

⁶⁴⁵ *Aristegui Noticias*, [¿Quién es Rosario Piedra Ibarra, la próxima presidenta de la CNDH?](#), November 11, 2019.

⁶⁴⁶ *El Sol de México*, [Admiten a trámite juicio de amparo contra elección de Rosario Piedra en CNDH](#), December 4, 2019.

⁶⁴⁷ IACHR, [Follow-up Report on the Situation of Human Rights Defenders in the Americas](#), OEA/Ser.L/V/II. Doc. 66, December 31, 2011, paras. 532-535.

⁶⁴⁸ [Cooperation agreement between the IACHR and CONAPRED](#), October 4, 2018.

⁶⁴⁹ Report of the Mexican State, Chapter IV of the Annual Report of the Inter-American Commission on Human Rights (IACHR), November 19, 2019, pgs. 1-2.

⁶⁵⁰ Articles 10; 16, paragraph 5; 21, paragraphs 9, 10, and subparagraph b); 31, part III; 35, part IV; 36, part II; 73, part XXIII; 76, parts IV and XI, and 89, part VII; paragraphs 11, 12, and 13 are added on to article 21; and part XV of article 73 and part I of article 78 of the Political Constitution of the United Mexican States are repealed.

⁶⁵¹ The following laws were enacted: National Guard Act; the National Use of Force Act; the National Registry of Detentions Act; and the National Public Security System Act.

⁶⁵² United Nations, [La ONU.DH saluda los cambios positivos sobre Guardia Nacional. February 22, 2019.](#)

⁶⁵³ Amnesty International, document "Mexico, input for the Annual Report of the Entire American Commission," October 31, 2019.

⁶⁵⁴ Amnesty International, document "Mexico, input for the Annual Report of the Entire American Commission," October 31, 2019. CMDPDH, follow-up on compliance with the recommendations in the report "Human Rights Situation in Mexico," November 8, 2019, pgs. 1-3.

and the inter-American standards established that hold that the participation of the Armed Forces in security work should be extraordinary, subordinate, complementary, regulated, and supervised.⁶⁵⁵

430. Additionally, the State also reported under the democratic institutions area on its **gender parity** policies and on the bodies of political representation. The State indicated that on June 5, 2019, a decree was issued on parity between genders to guarantee gender parity is applied in all orders and at all levels of government, and that for popularly-elected offices at the federal, state, and municipal levels, half must be occupied by women.⁶⁵⁶

431. As regards its social policy, the Commission takes note of the elimination of 18 social programs, including programs to support community soup kitchens, agricultural day laborers, subsidies for young people, and temporary employment, among other initiatives associated with alleviating poverty.⁶⁵⁷ The creation or elimination of social programs aimed at fighting poverty and the fulfillment of human rights must be carried out based on technical criteria, for which reason the IACHR calls on the State to evaluate the changes made for future determination of its social policy.

432. As regards **forced disappearance and disappeared persons**, the State recognized the humanitarian crisis surrounding the disappearance of persons. The IACHR welcomes the measures adopted by the State to address that crisis. It also noted the progress made toward implementing the National Search System and setting up almost all the State Search Commissions.⁶⁵⁸ In this regard, the IACHR takes note of the creation of the Extraordinary Forensic Mechanism⁶⁵⁹ and awaits its upcoming implementation, and trusts that it will maintain its participatory approach and abide by international standards. The Commission also notes that although the National Search System was reestablished in 2019, so far there are several instruments and programs that have not been adopted despite the expiration of the legal mandate, the Standardized Search Protocol, and the National Searches Program.

433. As regards **torture**, the State noted progress made toward creating the National Registry on the Offense of Torture and the publication of a national law on the use of force. The IACHR notes that questions have been raised with regard to the correct application of the Istanbul Protocol because it would be limited to solely a medical and physical evaluation.⁶⁶⁰ The IACHR also notes that questions have also been raised about the Use of Force Act because of its lack of clarity with regard to the mechanisms for guaranteeing proper oversight of the use of force and lethal force, as it pre-authorizes this type of force, and there is a lack of transparency surrounding the detailed reports on operations conducted in which force was used.⁶⁶¹ Additionally, the State reported that between 2014 and 2019, the CEAV attended to more than 254 victims of torture and 15 victims of sexual torture through its Federal Legal Aid office. It indicated that the National Victims Registry has records of 285 victims of torture, and that states with the most records of this crime are Baja California, Guerrero, and Veracruz. The State indicated that the reparations for damages received by

⁶⁵⁵ CMDPDH, follow-up on compliance with the recommendations in the report "Human Rights Situation in Mexico," November 8, 2019, pgs. 1-3.

⁶⁵⁶ Report of the Mexican State, Chapter IV of the Annual Report of the Inter-American Commission on Human Rights (IACHR), November 19, 2019, pg. 3-4.

⁶⁵⁷ *El Universal*, [AMLO borra programas sociales de Calderón y Peña](#), March 16, 2019.

⁶⁵⁸ Report of the Mexican State, Chapter IV of the Annual Report of the Inter-American Commission on Human Rights (IACHR), November 19, 2019, pgs. 33-35.

⁶⁵⁹ Secretary of Governance, [First Extraordinary Forensic Identification Mechanism approved in the country: resources will be unlimited, says Olga Sánchez Cordero](#), December 5, 2019

⁶⁶⁰ Committee against Torture, [Concluding Observations on the seventh periodic report of Mexico](#). Adopted by the Committee during its 66th period of sessions from April 23 to May 17, 2019, pg. 8.

⁶⁶¹ Centro PRODH, follow-up information to the report "Human Rights Situation in Mexico," 2015. Information sent on October 2, 2019. Pgs. 3-4.

victims of these crimes is comprehensive, and that the CEAV has issued 58 resolutions substantiating that torture and other human rights violations have occurred, addressing the situation of 229 victims.⁶⁶²

434. As regards the protection of **human rights defenders**, the State pointed to the mechanism for protecting human rights defenders and journalists and indicated that there are currently 220 active measures of protection. It also indicated that in 2019, 179 attacks and 38 murders of journalists and human rights defenders were documented, and it recognized the need to "move fundamentally forward" on preventing these incidents and improving its protocols for guaranteeing the safety of individuals under State protection.⁶⁶³ The IACHR notes that it has received information raising questions about the operability of the mechanism due to its lack of budget and staff.⁶⁶⁴ During 2019, the IACHR publicly warned about the worsening of the situation of violence against these groups.⁶⁶⁵ OHCHR-Mexico and the IACHR expressed concern at the murder of human rights defenders in the country, with 15 of them having been murdered through September 2019. Both organizations also expressed deep concern at the constant acts of harassment and threats against defenders of migrants and refugees in Mexico.⁶⁶⁶

435. The State did not submit information on **indigenous peoples** for this report. Regarding this issue, the IACHR has been aware of the challenges of the adjudication of mining concessions without consultation on the Nahuatl de Tecoltemi peoples' territory in the state of Puebla⁶⁶⁷ and the allegedly fake consultation of the development plan for the Isthmus of Tehuantepec.⁶⁶⁸ Additionally, the IACHR received information on alleged irregularities in the prior consultation process for the "Tren Maya" project. In view of this, the IACHR urges the State to standardize its consultation procedures in accordance with the standards established in the Inter-American system and trusts that the participatory process initiated for the constitutional amendment regarding recognition of the rights of indigenous peoples will make it possible to overcome the aforementioned situations and ensure that they conform to inter-American standards and to ILO Convention 169 on consultation to guarantee prior, free, and informed consent.

436. With regard to **combating gender-based violence and promoting substantive equality**, the State pointed to the adoption of a series of measures in the following areas: a. Equality between men and women; b. prevention of violence against women and girls; c. response to femicidal violence; d. obstetric violence; and e. prevention, training, and support by prosecutors offices on gender.⁶⁶⁹

437. Between 2015 and 2019, the National Commission for the Prevention and Eradication of Violence against Women issued 19 alerts in 312 municipalities and 18 Mexican states. The Commission urges the State to continue activating these mechanisms of prevention and reparation for victims to provide enhanced response to cases involving girls and adolescent girls, especially those under its custody, as there is

⁶⁶² Report of the Mexican State, Chapter IV of the Annual Report of the Inter-American Commission on Human Rights (IACHR), November 19, 2019, pgs. 16.

⁶⁶³ Report of the Mexican State, Chapter IV of the Annual Report of the Inter-American Commission on Human Rights (IACHR), November 19, 2019, pgs. 4-9.

⁶⁶⁴ *El Proceso*, [En octubre podría darse aumento de 150 mdp al Mecanismo de Protección: Segob](#), August 26, 2019, OHCHR, [Diagnóstico sobre el funcionamiento del mecanismo](#), Mexico City, July 2019, pg. 8.

⁶⁶⁵ IACHR, Press Release No. 043/19, [IACHR Condemns Illegitimate Deprivation of Liberty of Human Rights Defenders Otilia Eugenio Manuel and Hilario Cornelio Castro in Mexico](#), February 26, 2019; IACHR, Press Release No. 132/19, [IACHR and Regional Branches of the OHCHR Concerned about the Situation of Human Rights Defenders in the Americas in the First Four Months of 2019](#), May 30, 2019.

⁶⁶⁶ IACHR, Press Release No. 132/19, [IACHR and UN Human Rights Presences Once Again Call for the Creation of a Safe, Favorable Environment for Human Rights Defenders in the Americas](#), November 7, 2019.

⁶⁶⁷ *Animal Político*, [Comunidad indígena de Puebla logra llevar a revisión la inconstitucionalidad de la Ley Minera](#), October 21, 2019; *Proceso*, [Comunidad nahua gana amparo contra instalación de minera canadiense en Ixtacamaxtitlan](#), April 23, 2019.

⁶⁶⁸ *La Jornada*, [Organizaciones indígenas rechazan Consulta Istmo](#), March 30, 2019; *SDP*, [Denuncian que megaproyectos en el Istmo profundizan despojo a pueblos indígenas](#), April 29, 2019; *El País*, [Indigenismo simulado](#), May 9, 2019.

⁶⁶⁹ Report of the Mexican State, Chapter IV of the Annual Report of the Inter-American Commission on Human Rights (IACHR), November 19, 2019, pgs. 17-25.

information to indicate rapes have been committed in State-associated shelters⁶⁷⁰ and educational institutions.⁶⁷¹

438. As regards the protection of LGBTI persons, the IACHR notes the legislative progress made with respect to guaranteeing same-sex marriage in the states of Baja California Sur, Oaxaca, and San Luis Potosí, as well as the possibility of registering such unions in the country's consular missions abroad. The Commission likewise appreciates the decision enabling the National Electoral Institute (INE) to issuing voting credentials without gender identification for persons who so request. The Commission hopes that soon the states of Durango, Guanajuato, Estado de México, Sinaloa, Sonora, Tabasco, Tamaulipas, Tlaxcala, Veracruz, Yucatán and Zacatecas will adjust their laws in such a way as to protect marriage between all people regardless of their sex.

439. Additionally, the State indicated that to date, 32 states had codified femicide as a criminal offense, and as of February 2019, 24 states had a femicide protocol and 5 had a protocol for investigating murders with gender as a motive. It also noted that the National Victims Registry has documented 4,009 federal and local femicide cases. The State also indicated that in order to guarantee the integrity, safety, and lives of women and girls in Mexico, on March 6, 2019, INMUJERES presented an emergency plan for urgently addressing femicidal violence with actions aimed at prevention, justice, and support, and at strengthening the Alert Mechanism on Gender-based Violence against Women. The IACHR welcomes the entry into force of this plan and awaits its rapid implementation and reports on its initial results. Additionally, the State pointed to a debate taking place in the Senate on a draft amendment to the General Women's Access to Life Free from Violence Act and the General Health Act, related to obstetric violence.

440. Additionally, the State reported that several training sessions had been held on violence against women and human trafficking, reaching around 3,000 public officials. It said the sessions were offered by the Office of the Special Prosecutor on Crimes of Violence against Women and Human Trafficking of the Office of the Attorney General of the Republic. The IACHR views positively the codification of the crime of femicide and the adoption of protocols for prosecuting it. However, it reiterates its deepest concern at the fact that during the first six months of 2019, 1,812 women were murdered—an average of 10 women per day, along with a 20% increase in sexual violence during the first half of 2019 compared to the previous year.⁶⁷²

441. As regards the **rights of children and adolescents**, the Commission welcomes the passage by the Senate of amendments to the General Rights of Children and Adolescents Act that prohibit the use of corporal punishment in all situations as a corrective and disciplinary measure.⁶⁷³ The IACHR also took note that the Program of Day Cares and Preschools to Support Working Mothers was changed without properly weighing the best interest of the child and the corresponding impact. According to the information available, as of 2018, the program was operating without interruption, increasing its coverage and services. It had extended to have a presence in 32 states of the Republic, serving more than 2 million girls and boys.

442. Regarding this, the IACHR requested information from the State under article 41 of the American Convention, in view of the positive impact of the program's implementation. In its response, the State indicated that the Program to Support the Welfare of Working Mothers and Single Fathers for fiscal year 2019 guaranteed services to all at-risk individuals and targeted certain beneficiaries like working mothers and single

⁶⁷⁰ CNDH, [Special Report on the Situation of the Rights of Children and Adolescents in Social Assistance Centers and Public and Private Shelters in the Mexican Republic](#), October 2019.

⁶⁷¹ *Eje Central*, [Piden no reabrir albergue "Ciudad de los Niños"](#), July 21, 2019; *Contralínea*, [Organizaciones exigen a autoridades no reabrir albergues "Ciudad de los Niños"](#), July 22, 2019; *El País*, [El trauma es que abusen de ti y digan que no es malo, que Dios está viendo](#), May 10, 2019.

⁶⁷² CNDH. Update for 2019 of review of compliance with recommendations set forth in the "Report on the Situation of Human Rights in Mexico," October 2019, para. 49.

⁶⁷³ *La Razón*, [Senado aprueba prohibir castigo físico contra niños y adolescentes](#), November 27, 2019. *La Jornada*, [Aprueban en el Senado ley que prohíbe castigo físico a menores](#), November 27, 2019.

fathers through social assistance plans. It also highlighted that the program had expanded its coverage to individuals who were not part of the previous program and were therefore at risk.⁶⁷⁴

443. The Commission has also been monitoring the situation of the children and adolescents who are part of the migration groups that have formed in recent years in Central America that seek to reach the United States and Mexico.⁶⁷⁵ In this regard, the IACHR held a public hearing at which it received information on the barriers faced by migrating children and adolescents to accessing the Mexico's protection systems. In particular, civil society organizations highlighted the deprivation of liberty of families due to their migratory status, the lack of access to legal aid, the lack of information on measures of protection, and deportation processes that do not determine whether the measure would be in the best interest of the children and adolescents or without evaluating the risks that children and adolescents would be exposed to in their countries of origin.⁶⁷⁶ In this context, organizations also highlighted the lack of information on the number of children and adolescents traveling through Mexico.⁶⁷⁷ Also, according to information received by the Commission, more than 70% of accompanied children and adolescents were deported, with a negligible number having an opportunity to request recognition as refugees.⁶⁷⁸

444. The IACHR also expresses deep concern at the context of violence against children and adolescents in Mexico,⁶⁷⁹ including sexual violence.⁶⁸⁰ Regarding this, the United Nations Children's Fund (UNICEF) indicated that there is no effective statistical record to provide a clear and comprehensive picture of this phenomenon as experienced by children and adolescents.⁶⁸¹ With regard to this, it also highlighted that the Organization for Economic Cooperation and Development (OECD) identified Mexico as the member country in which the most sex crimes are committed against children and adolescents.⁶⁸² Additionally, civil society organizations indicate that every day, three children and adolescents are murdered and four are disappeared, with no response from the State. They also emphasize that the violence against children includes abuse, physical and psychological mistreatment, abandonment, negligent care, exploitation, sexual abuse, recruitment by organized crime, and murder.⁶⁸³

445. As regards **pretrial detention**, the IACHR reiterates its observations from the previous year's report on the expanding grounds for pretrial detention without a court order and its view that these changes are regressive and inconsistent with Inter-American standards on pretrial attention.⁶⁸⁴

⁶⁷⁴ IACHR, Response from the State of Mexico to article 41 letter sent on the Program of Daycares and Preschools to Support Working Mothers, November 12, 2019. IACHR Archive.

⁶⁷⁵ IACHR, Press Release No. 180/19, [IACHR Expresses Deep Concern about the Situation of Migrants and Refugees in the United States, Mexico, and Central America](#), July 23, 2019.

⁶⁷⁶ IACHR, Public Hearing on [Reports of violations of the rights of migrant children and adolescents in Central America](#), Mexico and United States, September 26, 2019.

⁶⁷⁷ *Pie de página*, [Migrar por México, más riesgoso para los niños](#), July 12, 2019.

⁶⁷⁸ IACHR, Meeting between the Office of the Rapporteur on the Rights of the Child and the office of the Rapporteur on the Rights of Migrants with the civil society organizations working on Mexico's southern border. IACHR Archive.

⁶⁷⁹ *El País*, ["Éramos niños jugando a ser sicarios": los hijos de la violencia en México](#), October 14, 2019.

⁶⁸⁰ *El Tiempo*, [#NoMeCuidanMeViolan, mujeres en México protestan contra la violencia](#), August 18, 2019. *France 24*, [Nuevas protestas en México para exigir justicia en caso de adolescentes presuntamente violadas por policías](#), August 17, 2019. *El País*, [La respuesta del Gobierno de Ciudad de México a una supuesta violación por policías desata la indignación](#), August 12, 2019.

⁶⁸¹ UNICEF, [Contar con datos estadísticos sobre violencia contra la infancia y la adolescencia es central para garantizar sus derechos](#), July 11, 2019.

⁶⁸² *El Herald*, [México ocupa el primer lugar en delitos sexuales a menores de edad: OCDE](#), July 18, 2019.

⁶⁸³ Centro de Estudios para el logro de la Igualdad de Género, "Children and adolescents who are victims of violence in Mexico," February 2019.

⁶⁸⁴ IACHR, Annual Report 2018, Chapter IV.A. para. 322. "Regarding pretrial detention, in a press release dated January 9, 2019, the Commission expressed concern at the various constitutional and legislative reform initiatives presented at the beginning of 2018 seeking to expand the list of crimes for which pretrial detention can be applied automatically and without a court order in Mexico (...) the IACHR reiterated to the Mexican State that obligatory pretrial detention based on the type of crime is a violation of the right to personal liberty; turns pretrial detention into a preemptive punishment; and constitutes illegitimate interference by legislators with the judiciary's

446. As regards the **rights of internally displaced persons**, the Commission joined the UN Special Rapporteur on the human rights of internally displaced persons in issuing a [joint press release](#) praising the judgment of the 10th Collegiate Criminal Tribunal of the First Circuit confirming that individuals who have been internally displaced are victims under the General Victims Act and that the Executive Victim Services Commission (CEAV) has authority to grant victim status to an individual who has been displaced, as well as guarantee them access to measures of aid, assistance, and immediate care.⁶⁸⁵

447. Additionally, the IACHR has closely monitored the situation of the rights of **migrants and people requesting asylum and refugee status**. Specifically, the Commission expressed concern at the situation of individuals in the United States, Mexico, and Central America in view of the policies and measures adopted by States on migration and asylum, including the hardening, militarization, and externalization of borders. Additionally, the IACHR expressed concern at the effects of United States' migration policies, particularly on those individuals who remain in Mexico.

448. The Commission was also informed of the poor detention conditions at Mexican migration stations and provisional stations, as well as of the detention of children and adolescents in Mexico. Additionally, the IACHR expressed concern at the increase in criminalization of human rights defenders who provide assistance to migrants and refugees in the United States and Mexico. The Commission also took note of the Comprehensive Development Plan - Guatemala - Honduras - El Salvador - Mexico presented by the Mexican State and developed in collaboration with CEPAL and 16 UN agencies. Its aim is to address the structural causes behind forced migration by improving people's quality of life in their communities of origin.⁶⁸⁶

449. Additionally, during the regional public hearing held in the framework of its 173rd period of sessions, the IACHR was informed of the grave human rights situation facing migrant children in Central America, Mexico, and the United States. Likewise, during a public hearing, the Commission received information on acts to criminalize and discriminate against migrants and those requesting asylum, as well as lack of humanitarian aid, the growing use of migrant detention, and attacks on those defending migrants and on migrant shelters.⁶⁸⁷ For its part, the Mexican State pointed to the actions taken to protect the migrant population and emphasized that it had dedicated human resources and infrastructure to increase its response capacity.

450. As regards **afrodescendant persons**, the IACHR highlights the passage of the constitutional reform by the Senate of the Republic and article 2, which recognizes the country's Afro-descendant population in its political Constitution.⁶⁸⁸ In this regard, the Commission calls on the Mexican State to establish channels of communication with civil society organizations in the framework of the design, implementation, monitoring, and evaluation of census policies, particularly with regard to the inclusion of the variable of Afro-descendance in the 2020 Census, which the National Statistics and Geography Institute will be conducting. It should do so in order to ensure the appropriateness of the question about ethnic-racial self identity for both indigenous peoples and people of African descent,⁶⁸⁹ in line with Inter-American standards on equal protection and nondiscrimination.

authority to judge. Nevertheless, on February 19, 2019, Congress approved the Constitutional amendment expanding the list of crimes for which pretrial detention can be used without a court order. It was then sent to local legislatures for approval."

⁶⁸⁵ IACHR, Press Release No. 100/19, [IACHR and the UN Special Rapporteur on the Human Rights of Internally Displaced Persons Welcome Decision for the protection of internally displaced persons in Mexico](#), April 17, 2019.

⁶⁸⁶ IACHR, Press Release No. 180/19, [IACHR Expresses Deep Concern about the Situation of Migrants and Refugees in the United States, Mexico, and Central America](#), July 23, 2019.

⁶⁸⁷ IACHR, Public Hearing on ["Migration asylum in Mexico."](#) September 26, 2019.

⁶⁸⁸ Diario Judicial. Executive Branch, Secretary of Governance, [Decree to add a section C to article 2 of the Political Constitution of the United Mexican States](#), August 9, 2019.

⁶⁸⁹ IACHR, Hearing, Mexico: [Racial criteria for the 2020 census](#), 172 Period of Sessions Jamaica. May 9, 2019.

451. As regards **freedom of expression**, the State pointed to the operation of the Office of the Special Prosecutor on Crimes against Freedom of Expression, which is under the Office of the Special Human Rights Prosecutor. The State pointed to training on freedom of expression that had been conducted in previous years, along with training of law enforcement officials that took place in 2019. It also noted that in 2019, the FEADLE had secured four judgments, although it specified neither the court level, nor the jurisdiction, nor the offense.⁶⁹⁰ The IACHR reiterates that it has been focusing on these low numbers in the justice system because FEADLE's low operating capacity produces impunity⁶⁹¹ and is an indication of inefficiency,⁶⁹² as its Office of the Special Rapporteur on Freedom of Expression has noted.

PANAMA

- **General considerations**

452. Regarding **progress** during 2019, the IACHR welcomes the adoption of resolution DM-0612-2019 of the Ministry of the Environment establishing the legal criteria to be applied in determining the viability of granting requests to adjudicate collective lands presented by indigenous communities through their recognized traditional authorities when they are partially or fully overlapping protected areas or State forestry lands. The resolution was published in the government gazette on Monday, December 2, 2019.⁶⁹³

453. As regards **challenges**, the IACHR observes that concessions of mining and water projects without proper consultation or the submission of environmental impact studies continue to take place.⁶⁹⁴

454. The State did not respond to the request for information sent to prepare this chapter.

- **Specific issues**

455. As regards the **human rights institutions**, the IACHR notes that on October 9, the dismissal of the Ombudsperson was approved by the Plenary of the National Assembly of Deputies. The resolution of dismissal states that the Ombudsperson was grievously negligent in the discharge of his duties, which is grounds for removal. On October 16, the IACHR expressed concern at the dismissal of the Ombudsperson of Panama, Alfredo Castellero Hoyos. The Ombudsperson argued that his right to defense before the Plenary was violated, as he had arrived to the debate on his removal without previously having had access to the case file.⁶⁹⁵ The IACHR recalls that, pursuant to the Paris Principles, States must guarantee the independence and autonomy of ombudspersons in charge of defending and promoting human rights. In this regard, any circumstances that may lead to the removal of a person holding an office in a human rights institution must be provided in detail and limited to grave errors or clear incapacity, and the body in charge of making the decision must act independently from the executive branch.

456. As regards the **rights of migrants, and those requesting asylum and refugee status**, the Commission has closely followed the situation of Nicaraguans, especially through the working visit the IACHR made to the country and through its MESENI, with the aim of monitoring the situation of the Nicaraguan

⁶⁹⁰ Report of the Mexican State, Chapter IV of the Annual Report of the Inter-American Commission on Human Rights (IACHR), November 19, 2019, pgs. 9-11.

⁶⁹¹ IACHR. Office of the Special Rapporteur for Freedom of Expression. [Press releases on Mexico, 2019](#).

⁶⁹² National Human Rights Committee (CNDH). Update for 2019 to the CNDH's contribution in the framework of review of compliance with recommendations set forth in the "Report on the Situation of Human Rights in Mexico," published by the IACHR in 2015. Chap. II. Mexico office of the United Nations High Commissioner of Human Rights (UN-HR). July 2019. [Diagnóstico sobre el funcionamiento del mecanismo](#).

⁶⁹³ *La Verdad*, [Ministerio de Ambiente abre espacio para titulación de tierras indígenas](#), December 4, 2019.

⁶⁹⁴ Office of the Ombudsperson, [Ombudsperson meets with National Indigenous Peoples Coordinator of Panama](#), July 31, 2019.

⁶⁹⁵ IACHR, Press Release No. 260/19, [IACHR Expresses Concern Over Dismissal of Ombud in Panama](#), October 16, 2019.

population in Panama, among other monitoring work.⁶⁹⁶ During the visit, the IACHR was informed of the difficulties facing Nicaraguans when performing migration procedures, in securing recognition of their status as refugees, and in gaining access to work and education, among other services.⁶⁹⁷ The Commission also emphasized the lack of formal documents to prove the status of those applying for refugee status and to ensure they are recognized by public security agents. It also highlighted the impossibility of accessing other documents that protect freedoms of domestic movement, such as drivers licenses.⁶⁹⁸ Without prejudice to this, the IACHR issued a press release welcoming the implementation of Executive Decree No. 5 on refugees that incorporates gender as an element for verifying credible fear of persecution and granting refugee status.⁶⁹⁹

457. Additionally, the Commission expresses concern at the administrative measures adopted that will lead to turning migrants back and deporting them. According to public information, during the first five months of 2019, the National Migration Service deported 1,735 migrants and returned them to their countries of origin. It also turned away 416 migrants seeking entry, all of them either Colombians, Cubans, Venezuelans, Nicaraguans, and Ecuadorians.⁷⁰⁰

458. Lastly, regarding the **rights of stateless persons**, the IACHR issued a press release welcoming the entry into force of Executive Decree No. 10, granting protection to stateless persons in Panama and, consequently, offering them the opportunity to seek naturalization.⁷⁰¹

459. As regards **indigenous peoples**, in addition to the persistence of concessions of mining and water projects without proper consultation or the submission of environmental impact studies, the IACHR expresses concern at high illiteracy rates among this group, as well as high failure and drop-out rates.⁷⁰²

460. As regards the situation of **persons deprived of liberty**, the Commission notes with concern the events of December 17, 2019, in the Joyita Penitentiary. According to publicly-available information, there was a confrontation between inmates that left 13 people dead and 14 injured.⁷⁰³ The IACHR observes that according to a report from the Ministry of Government and the Ministry of Security, the penitentiary's infrastructure has serious deficiencies and deterioration, as well as a limited number of internal and external security staff.⁷⁰⁴

461. Regarding **freedom of expression**, the IACHR noted the regular use of criminal and civil proceedings against journalists and media outlets that investigate and publish articles on alleged acts of corruption in a way that could produce a climate of self-censorship among the media.⁷⁰⁵ The IACHR also notes

⁶⁹⁶ IACHR, Press Release No. 272/19, [IACHR and MESENI Visit Panama to Monitor the Situation of Nicaraguan Migrants and Refugees](#), October 25, 2019.

⁶⁹⁷ IACHR, Press Release No. 272/19, [IACHR and MESENI Visit Panama to Monitor the Situation of Nicaraguan Migrants and Refugees](#), October 25, 2019.

⁶⁹⁸ IACHR, Press Release No. 272/19, [IACHR and MESENI Visit Panama to Monitor the Situation of Nicaraguan Migrants and Refugees](#), October 25, 2019.

⁶⁹⁹ IACHR, Press Release No. 272/19, [IACHR and MESENI Visit Panama to Monitor the Situation of Nicaraguan Migrants and Refugees](#), October 25, 2019.

⁷⁰⁰ *Telemetro*, [Migración prohíbe la entrada a más de 3.600 extranjeros](#), June 21, 2019.

⁷⁰¹ IACHR, Press Release No. 042/19, [IACHR Welcomes Actions to Protect the Right to a Nationality and to Prevent Statelessness in the Region](#), February 25, 2019.

⁷⁰² *La Estrella Panamá*, [Discriminación en la educación, desfavorable para los pueblos indígenas](#), November 27, 2019; *Prensa Latina*, [Persisten bajos niveles educativos en comarcas indígenas en comarcas indígenas en Panamá](#), December 25, 2019.

⁷⁰³ *BBC*, [Balacera en La Joyita: al menos 12 muertos y 13 heridos en una reuerta en la controvertida cárcel de la Ciudad de Panamá](#), December 18, 2019.

⁷⁰⁴ Ministry of Public Security of Panama, [Mirones presents report on clash in La Joyita](#), January 8, 2020; *Infobae*, [Tiroteo desnuda deficiencias de seguridad en cárcel panameña](#), January 8, 2020; *Mi Diario*, Este es el informe del Ejecutivo, tras masacre ocurrida en La Joyita, January 7, 2020;

⁷⁰⁵ According to information from the IACHR Office of the Special Rapporteur on Freedom of Expression the media outlets and citizens who have been sued include the Corporación La Prensa, Mi Diario, Radio Panamá, Hilde Sucre, Mariel Ledezma, Annette Planells,

that article 195 of the Penal Code remains in force. It punishes the crimes of defamation and calumny with prison or the equivalent fine when committed through oral or written social communication or using a computer system. There is no limit on damages awarded civilly on these grounds.⁷⁰⁶

PARAGUAY

- **General considerations**

462. During 2019, the Commission took note of the **progress** made in Paraguay, including the consolidation of human rights protection institutions; the Paraguayan State's willingness to move forward in the implementation of the commitments it has made in a number of friendly settlement agreements under negotiation and being implemented; and the guarantee of access to justice from a gender approach.

463. The IACHR recognizes several **challenges** faced by the State, including the high number of girls impregnated as a result of sexual violence committed, in many cases, by family members; the persistence of the practice known as "*criadazgo*;" and the prevalence of gender-based murders of and attacks on women.

464. The State submitted a response to the request for information sent to prepare this chapter.

- **Specific issues**

465. As regards **human rights institutions**, Paraguay has an Office of the Ombudsperson, that is responsible for defending human rights, handling complaints from the public, and protecting community interests. It is a member of the Iberoamerican Federation of Ombudsmen.

466. The IACHR highlights the existence of an institutional framework for protecting human rights, including specialized units inside the institutions of the three branches of government. This structure enables the contribution of a human rights perspective to public policy. Regarding this, the Commission urges the Paraguayan State to strengthen these institutions and provide them with sufficient resources to carry out their important work.⁷⁰⁷

467. The IACHR has taken note of the efforts made by Paraguay through coordination of the Ministry of Justice and the National Human Rights Office on the use and advancement of the International Recommendations System SIMORE Plus⁷⁰⁸ as a mechanism for monitoring and following up on international human rights recommendations.⁷⁰⁹ It also recognizes the promotion of this mechanism, in view of the training on it that has been provided to public officials from different State institutions.

468. Regarding the strengthening of **democratic institutions**, the Commission takes note of the efforts of the High Tribunal of Electoral Justice (TSJE) to comply with the recommendations offered by the European Union's Electoral Observation Mission from the 2018 elections. The recommendations touched on guaranteeing the right to vote of police officers, persons deprived of liberty, indigenous groups, and other

Mariano Mena, Alberto Velásquez, Sabrina Bacal, Rolando Rodríguez, Rita Vásquez, Diego Quijano, Cesar Tribaldos, Lorenzo Bregó, Sonia Navarro, Martha Concepción, Enrique Breathwite, Juan Manuel Díaz, Guillermo Chapman, Horacio Icaza, Aurelio Barria, Olmedo Rodríguez, Eliana Morales, Rafael Luna, Rodrigo Noriega, Juan Luis Batista, Cecilia Fonseca, Victoria Isabel Cardiel, María Mercedes de Corró, Mónica Palm, Ricardo Bermúdez, Carlos Vargas, Aleida Samaniego, Rafael Calvo, Yolanda Saldoval, Daniel Domínguez, Juan Carlos Planells, Carolina Sánchez, Mary Triny Zea, and Ereida Prietto. See also *La Estrella de Panamá*, [Martinelli se querrela contra periodistas de 'La Estrella'](#), March 21, 2019; EFE, [Un expresidente de Panamá demanda a radio del Grupo Prisa por 5 millones dólares](#), December 6, 2019; *TV Noticias*, [SIP muestra preocupación por múltiples demandas contra periodistas panameños](#), November 7, 2019.

⁷⁰⁶ *TV Noticias*, [SIP muestra preocupación por múltiples demandas contra periodistas panameños](#), November 7, 2019.

⁷⁰⁷ IACHR, [IACHR ends working visit to Paraguay](#), November 21, 2019.

⁷⁰⁸ Ministry of Justice, [Public institutions discuss public human rights recommendations](#), May 27, 2019.

⁷⁰⁹ Ministry of Justice, [Actions pursued to protect human rights](#), May 27, 2019.

factors. The IACHR also emphasizes the efforts of the TSJE to comply with law 6318/2019, which, among other things, mandates the use of the electronic voting system during the upcoming elections.⁷¹⁰

469. As regards **citizen security**, the Commission notes the Ministry of the Interior's commitment to ensure citizen security by building the capacity of the National Police, as well as its intent to fight transnational organized crime jointly with other States.⁷¹¹ However, it received with concern information on proposals to militarize citizen security.⁷¹² In this regard, the Commission reminds the State that the work of the Armed Forces should be restricted to protecting national territory and cannot be mixed with citizen security functions.

470. With regard to **access to justice**, the Inter-American Commission learned of the existence of a process to draft the "First protocol on access to justice for people with psychosocial disabilities" with the aim of guaranteeing the right to access to justice for **persons with disabilities**.

471. As regards the **rights of women**, the IACHR underscores that on March 9, 2019, the "Gender Atlas" electronic platform was presented.⁷¹³ The platform was built by the General Office on Statistics, Surveys, and census with the aim of visualizing the existing gaps between men and women and facilitating the design and formulation of public policies aimed at achieving real and effective equality, in compliance with the Fourth National Equality Plan 2018-2024. However, the Commission notes with concern the reports of at least 42 femicides perpetrated in Paraguay during 2019.⁷¹⁴ According to information from the Observatory of the Ministry of Women of Paraguay, 21.3% of femicide victims in Paraguay are under the age of 20, while 37.8% are women between the ages of 21 and 30.

472. As regards the **rights of children and adolescents**, the Commission continues to monitor the recruitment of adolescents to serve in the Armed Forces as a consequence of a campaign launched by the government.⁷¹⁵ In this regard, according to available information, as of January 2019, almost 400 adolescents were undergoing illegal training in military institutions.⁷¹⁶

473. The IACHR is also concerned at the violation of the rights of children and adolescents to access education. According to media reports, the country saw an educational crisis in 2019 because of a lack of teachers. The crisis affected impacted students in 133 educational institutions.⁷¹⁷ In addition to this, in technical training, students at the National Technical High School went on strike to reject the hiring of general-purpose educators for specific areas, arguing that it would impact the quality of their education.⁷¹⁸

474. Additionally, the Commission views positively the National Congress's processing of a bill to promote and protect the rights of children and adolescents to live in a family. The bill also regulates alternative care and adoptions. It establishes guidelines for designing policies to prevent the separation of children and adolescents from their family and community surroundings, and also establishes mechanisms for formalizing

⁷¹⁰ High Court of Electoral Justice, [President of the TSJE highlights the presence of the EU Elections Monitoring Mission in Paraguay](#), December 11, 2019 [Electoral authorities report result of evaluation of technical proposals in the framework of the competitive bidding process for voting machines](#), December 19, 2019.

⁷¹¹ Agencia de Información Paraguaya, [Citizen security as the foundation of economic growth, the objective for 2020](#), December 17, 2019.

⁷¹² *Sputnik*, [Paraguay pretende militarizar la seguridad y pone en riesgo la democracia](#), September 23, 2019.

⁷¹³ General Office on Statistics, Surveys, and Census, Gender Atlas, available at: <https://atlasgenero.dgeec.gov.py/>

⁷¹⁴ Observatory on Gender-based Violence, [Femicides in 2019](#), updated through December 16, 2019.

⁷¹⁵ Observatory on Public Policies and the Rights of Children and Adolescents of the Office on the Rights of Children and Adolescents of Paraguay, Special Report, Recruitment of Adolescents for the Paraguayan Armed Forces, 2018-2019, archive of the IACHR, January 2019.

⁷¹⁶ *La Nación*, [SMO: Denuncian que menores de edad manejan armas en cuarteles](#), January 18, 2019.

⁷¹⁷ *La Nación*, [Reportan 133 escuelas sin maestros en aulas](#), July 16, 2019.

⁷¹⁸ *La Nación*, [Reportan 133 escuelas sin maestros en aulas](#), July 16, 2019.

and regulating alternative care for children and adolescents separated from their families. Finally, it provides guidelines for improving the adoptions system.⁷¹⁹

475. The Inter-American Commission also received information on cases of children and adolescents who have been sent by their families to work in other homes in exchange for food and education, under a practice known as “*criadazgo*.” According to information from UNICEF, there are more than 46,993 children and adolescents in this situation in Paraguay. In this regard, the Commission is pleased to see the State’s commitment to addressing the issue through educational campaigns, as well as including *criadazgo* within the legal definition of human trafficking.

476. Regarding the rights of **indigenous peoples**, the Commission underscores the efforts made by the State of Paraguay to comply with the reparation measures ordered by the Inter-American Court of Human Rights in the judgments handed down in the Xákmok Kasek and Yakye Axa cases, respectively.⁷²⁰ At the same time, it took note of the information it received during the working visit on the challenges faced by communities affected by displacement from their ancestral lands, as well as other situations of exclusion, poverty, and lack of access to the rights to health, education, housing, and work.

477. With regard to **Afrodescendant persons**, the IACHR highlights the support for the draft bill to recognize Afro-descendants. This initiative of the Technical Roundtable, coordinated by the National Secretary of Culture, aims to guarantee the economic, social, cultural, civil, and political rights of this ethno-racial group.⁷²¹

478. In the same regard, the IACHR welcomes the legislative initiative to codify hate crimes against persons of African descent. The IACHR notes that this initiative is in line with the inter-American standards established in the Inter-American Convention against Racism, Racial Discrimination, and Related Forms of Intolerance⁷²² and is a step toward full implementation of the principles of equal protection and nondiscrimination in Paraguay.

479. Regarding the situation of **persons deprived of liberty**, the Commission notes the existence of action protocols for persons deprived of liberty who belong to vulnerable groups, including older adults, trans persons, indigenous persons, and persons with disabilities. These protocols are in the dissemination and implementation phase.⁷²³ However, during its working visit to Paraguay, the IACHR received information on high rates of overcrowding, excessive use of pretrial detention, and the alleged mistreatment and torture. According to the information provided by the National Mechanism for the Prevention of Torture (MNP) of Paraguay, the prison system has a total of 15,191 persons deprived of liberty; of them, 74% of the men and 65% of the women have not been convicted. This exceeds the regional average and means the State has one of the highest rates of pretrial detention in the Americas.

480. The IACHR also received information indicating that the number of people deprived of liberty exceeds the penitentiary system’s capacity to house them. In this regard, the MNP reported to the commission that, based on the minimum standard established by the Inter-American Court of Human Rights in the case of *Montero-Aranguren v. Venezuela* of 7 m² per inmate, several prisons exceed their housing capacity by 786%. In this context, the Commission takes note of the State’s efforts to acknowledge the issue and declare a state of

⁷¹⁹ Office on the Rights of Children and Adolescents of Paraguay, [Bill to promote and protect the rights of children and adolescents to live in a family and regulate alternative care and adoptions](#), November 4, 2019.

⁷²⁰ Corte IDH, [Supervisión de Cumplimiento de Sentencia en el caso Comunidad Indígena Yakye Axa vs. Paraguay](#) y [Supervisión de Cumplimiento de Sentencia en el caso Comunidad Indígena Xákmok Kásek vs. Paraguay](#) resoluciones de 14 de mayo de 2019.

⁷²¹ National Secretary of Culture of Paraguay, [Draft bill in Paraguay recognizing Afro-descendants is publicized in Paraguari](#), May 3, 2019.

⁷²² *Ultima Hora*, [Paraguay estudia tipificar los delitos de odio contra los afrodescendientes](#), October 8, 2019.

⁷²³ Republic of Paraguay, Report of the State of Paraguay on human rights for the preparation of the 2019 Annual Report of the IACHR, November 5, 2019.

emergency for Paraguay's penitentiaries under Law 6365/19. This effort is in line with the Inter-American standard indicating that overcrowding constitutes in itself a violation of the right to humane treatment.

481. As regards **lesbian, gay, bisexual, trans, and intersex (LGBTI) persons**, the IACHR received with satisfaction the decision of the Court of Justice of the City of Luque that, for the first time in Paraguay, found an individual guilty of a hate crime for murdering a trans woman based on the gender identity of the victim.⁷²⁴ However, during the working visit, the Commission noted with concern the decisions made by municipal authorities in the cities of Encarnación and Hernandarias to refuse to authorize a peaceful march by LGBTI persons during Pride Day. The Commission also notes with concern that once the Hernandarias was able to take place, its participants were subjected to acts of violence at the hands of other groups that oppose the rights of LGBTI persons.

482. Additionally, as regards **memory, truth, and justice**, the IACHR observes with concern that, despite the State's efforts to form the Paraguay Truth and Justice Commission, five years after the enactment of Law 838, the State has not paid compensation to the victims of the 1954-1989 dictatorship. Regarding the reparations established in the law on compensation, the IACHR recalled in the press release it issued following its visit that the obligation to provide compensation derives from the status of the victims of grave human rights violations suffered at the hands of the State, and the State should therefore take all measures to adequately guarantee this aspect of reparations.

483. As regards **economic, social, cultural, and environmental rights**, during its visit, the Commission received information on budget cuts made by the State in different areas, including culture, higher learning, energy, health, public works, communications, security, public defense, the environment, and sustainable development. In this regard, as indicated in the corresponding press release, the IACHR is aware of the economic difficulties facing Paraguay; however, it reminds the State that budget adjustments should be made while taking into account a human rights approach, which includes respect for economic, social, cultural, and environmental rights. This means cuts should be made with, among other things, citizen participation, accountability, and prior evaluation of their impact on the rights of the population, especially on groups most exposed to situations of vulnerability.

484. As regards the situation of **human rights defenders**, the IACHR noted with concern the information received during its visit on the processing of a bill in the Paraguayan Congress to Create and Regulate the Operations of the National Institute on Non-Governmental and Non-Profit Organizations (INOGUFIL) and Establish its Organic Charter (D-1848553). According to the information provided, the law would seek to regulate the actions of nongovernmental organizations that receive public resources and could put the State in a position to regulate freedom of association and citizen political participation. In line with the press release it issued following its visit to Paraguay, the IACHR reiterates that civil society organizations play a fundamental role in democracies by guaranteeing the effective participation of different sectors of society in the design and oversight of public policy.

485. As regards **older persons**, in May, physicians demonstrated to ask the Executive Branch to promulgate the Special Retirement for Physicians Act, which had been passed by both chambers of the legislature. The Senate overturned the Executive's partial veto, meaning that the law was passed. Under it, physicians would receive 100% of the average they earned over the previous three years once they are 60 years old and have been contributing to the system for 30 years.⁷²⁵

486. As regards the rights of **stateless persons**, the Commission has monitored the measures adopted by the Paraguayan State to guarantee the right to nationality. In a press release, the IACHR welcomed the entry into force of Law 6,149, the Protection and Facilities for the Naturalization of Stateless Persons Act, highlighting its significance on being the first in the region to specifically address the issue of stateless persons

⁷²⁴ *Última Hora*, [Por primera vez en Paraguay dictan condena por asesinato de una trans](#), October 1, 2019.

⁷²⁵ *La Nación*, [Piden jubilación médica "antes de morir"](#), May 7, 2019; *ABC Color*, [Jubilación especial de médicos queda firme](#), May 23, 2019.

through a law. The IACHR also emphasized the importance of establishing a procedure for delayed registration of births, as well as the inclusion of a paragraph allowing access to Paraguayan nationality through consulates and embassies for the children of Paraguayans born abroad who, for legal reasons in their country of birth, are stateless.⁷²⁶

487. Regarding **freedom of expression**, during 2019, the IACHR noted through its Office of the Special Rapporteur a marked context of political polarization in Paraguay that led to the development of numerous social protests, resulting in incidents between demonstrators and State security agents as well as attacks on journalists covering the protests. The Office documented efforts by senior State authorities to deploy a discourse seeking to discredit the protests against the government and link them to alleged destabilization plans. Of note was the increase in the number of threats, incidents of intimidation, attacks, and legal actions aimed at criminalizing the work of journalists who disseminate information that is significantly in the public interest. The Office of the Special Rapporteur also observed with concern that a number of journalists with media outlets were dismissed from their jobs because of the economic recession facing the country. Lastly, the Office highlights the progress made on protecting the right to access to information, although it noted legal reforms that could be regressive in this area.

PERU

- **General considerations**

488. During 2019, the IACHR took note of the **progress** made in Peru, in particular the creation of the National Plan on Integrity and the Fight against Corruption 2018-2019, identified by the National Statistics and Computing Institute as the country's leading problem,⁷²⁷ as well as the adoption of the National Gender Equality Policy.⁷²⁸

489. The IACHR also recognizes the adoption of the "Protocol to guarantee the protection of human rights offenders" and highlights the Peruvian authorities' rejection of attempts to distort the nature of the mechanisms designed to protect human rights defenders and of expressions stigmatizing the work of those who defend human rights.

490. Regarding **challenges**, the IACHR learned of reports of corruption in the judiciary and at senior levels of the executive branch. The IACHR also noted that reports of links between public officials and organized crime and of graft have frayed the country's democratic institutions.

491. The State responded to the request for information sent to prepare this chapter.

- **Specific issues**

492. As regards **human rights institutions**, the IACHR welcomed the participation of the Office of the Ombudsperson of Peru—an autonomous and independent body that promotes and defends human rights—in the Third Interamerican Meeting on Good Practices for National Human Rights Institutions, which took place in Medellin, Colombia.

493. The Commission also highlights the implementation of the Third Human Rights Plan 2018-2021. Additionally, it notes that progress has been made toward approving the methodology for the process to draft a National Action Plan on Enterprises and Human Rights, with participation from civil society.⁷²⁹

⁷²⁶ IACHR, Press Release No. 042/19, [IACHR Welcomes Actions to Protect the Right to a Nationality and to Prevent Statelessness in the Region](#), February 25, 2019.

⁷²⁷ Republic of Peru, Report from the State of Peru on human rights progress for the preparation of the 2019 Annual Report, received on October 25, 2019.

⁷²⁸ *Diario oficial del bicentenario*, [Supreme Decree No. 008-2019-MMP](#), April 4, 2019.

⁷²⁹ [Vice Ministerial Resolution 001-2019-IUS](#), September 6, 2019.

494. Also during 2019, the IACHR was informed of the status of changes made to the Penal Code with regard to punishments for the criminal offense of sexual exploitation in its different forms and related offenses in order to put special emphasis on protecting children, adolescents, and women. Likewise, the IACHR was informed of the enactment of Law 30,924, which establishes a fine for the criminal offense of forced labor. It was also informed of the approval of two important reports by the National Commission against Discrimination on promoting equality and nondiscrimination: a report on discrimination in Peru's media, with special emphasis on death and racial discrimination, and a report on the status of the gender identity of trans persons in Peru.⁷³⁰

495. Regarding **democratic institutions**, the IACHR notes with deep concern the possible implication of public officials in criminal activities. The Commission has learned of the alleged connection between the President of the Supreme Court of Peru with the Cuellos Blancos del Puerto criminal organization and of an unseated congressman accused of graft and on the run from justice.⁷³¹ Regarding the progress made in the Odebrecht case, the IACHR was informed that documentation was sent on the cooperation agreement with the company in Brazil,⁷³² and that it is currently being analyzed by a magistrate with the Peruvian judicial branch's anticorruption system.⁷³³

496. As regards identifying those responsible for crimes of corruption, the IACHR learned of the case of a former mayor who admitted having received money from Odebrecht to finance her campaign against a recall in 2013; the former governor convicted and sentenced to eight years and three months in prison for aggravated collusion; and the former presidents who received funds from Odebrecht to finance their election campaigns. The IACHR has learned that the scope of the pretrial detention ordered in this case was questioned by the President of the Republic, who alleged it was being used excessively.⁷³⁴ In this context, pretrial detention was discussed by the Plenary Chamber of the Supreme Court, which in May called a full criminal session to discuss the scope of this measure. This was due to dispute over its application to politicians suspected of corruption and money laundering.⁷³⁵

497. For its part, the IACHR welcomes the vote of confidence presented by the presidents of the Council of Ministers to the Congress to approve anticorruption reforms;⁷³⁶ it also welcomes the approval of the National Plan on Integrity and the Fight against Corruption 2018-2019, identified by the National Statistics and Computing Institute as the country's leading problem.⁷³⁷

498. During 2019, the IACHR expressed concern at reports of a lack of publicity and transparency in the process to select six magistrates of the Peruvian Constitutional Tribunal. The Commission noted that, according to the information received, the selection criteria used for the Special Congressional Committee to choose the candidates had not been made public, as the transcript of the deliberation on September 18 only indicates that the candidates are proposed based on the Special Committee's criteria. Likewise, according to the information received by the IACHR, during the selection and deliberation process, no space was provided

⁷³⁰ Republic of Peru, Report from the State of Peru on human rights progress for the preparation of the 2019 Annual Report, received on October 25, 2019.

⁷³¹ *América TV*, [Edwin Donayre es incluido en la lista de los más buscados del Mininter](#), May 6, 2017.

⁷³² *Perú 21*, [Equipo Lava Jato entregó hoy acuerdo con Odebrecht al Poder Judicial](#), March 25, 2019.

⁷³³ Peru.com, [Poder Judicial ordeno medidas de seguridad para resguardar acuerdo con Odebrecht](#), March 29, 2019; *Perú 21*, [PI ordeno medidas de seguridad para resguardar acuerdo con Odebrecht](#), March 29, 2019

⁷³⁴ *El País*, [El presidente de Perú cuestiona el uso extendido de la prisión preventiva](#), April 22, 2019.

⁷³⁵ La República, [Corte suprema evaluará la prisión preventiva](#), May 6, 2019.

⁷³⁶ *DW*, [Perú: nueva moción de confianza podría llevar a disolución del Congreso y renuncia del gabinete](#), June 4, 2019.

⁷³⁷ Republic of Peru, Report from the State of Peru on human rights progress for the preparation of the 2019 Annual Report, received on October 25, 2019.

for the participation of civil society organizations.⁷³⁸ The IACHR also received information on the removal of members of the National Penitentiary Council following the release of Rubén Moreno Olivo, who was convicted and sentenced for the attempted murder of Counselor Ezequiel Nolasco.⁷³⁹

499. Regarding **economic, social, cultural, and environmental rights**, during 2019, the IACHR and its Special Rapporteurship on Economic, Social, Cultural, and Environmental Rights learned of two serious oil spills from the Norperuano Oil Pipeline, a system operated by State enterprise Petro-Perú. The first took place on June 18 in the Loreto region, and the second took place toward the beginning of July in the Amazonas region. The IACHR has also learned that members of a number of communities located in the municipality of Las Bambas reported a variety of impacts from mining activity, including water pollution and associated illnesses; threats to control of their lands and against defenders seeking to protect the community; social disturbances such as an increase in alcoholism and suicides; and displacements.⁷⁴⁰ The Commission reiterates that States have an obligation to regulate, supervise, and monitor activities under their jurisdiction that may cause significant harm to the environment, including business activities involving extraction and development that affect human rights; conduct environmental impact studies; ensure the establishment of contingency plans providing for security measures and procedures to minimize the possibility of environmental accidents; and mitigate, investigate, and redress any harm to human rights that may have been caused, applying the corresponding sanctions to those responsible. Specifically in cases in which business activities may directly impact indigenous, tribal, or Afro-descendant peoples or communities, States have a special duty to ensure the participation of these peoples by respecting and guaranteeing the right to consultation and—where applicable—free, prior, and informed consent, as well as the performance of social and environmental impact studies beforehand and the establishment of shared benefits in order to guarantee the rights of these peoples.⁷⁴¹

500. Regarding **access to justice and judicial independence**, the Commission observes that the situation of corruption facing Peru has led to a crisis in the judicial branch that extends to the country's democratic institutions. This situation also affects rights related to judicial guarantees and judicial protection, as well as access to independent, impartial, and effective justice, with a special impact on women, children, and adolescents who are victims of sexual abuse and gender-based violence.⁷⁴²

501. The IACHR has also observed with concern that the Public Ministry's independence may be affected by disciplinary procedures brought against prosecutors investigating corruption involving high-ranking current and former government officials that culminated in their dismissals.⁷⁴³ The IACHR warns that these measures could be an obstacle to conducting a quick, serious, diligent, and transparent investigation to establish whether crimes were committed and prosecute and punish those responsible. In this context, the IACHR sent a request to the State for information under Article 41 of the ACHR. In its response,⁷⁴⁴ the State provided information on the current status of investigations into people involved in the Odebrecht case and

⁷³⁸ IACHR, [Press release 241/2019 - IACHR urges transparency in the process to select six magistrates for the Constitutional Tribunal of Peru and calls for guarantees of their independence](#), September 26, 2019.

⁷³⁹ *El diario*, [Perú destituye a las máximas autoridades penitenciarias por la liberación de un sicario](#), June 27, 2019.

⁷⁴⁰ *El País*, [El impacto de una de las minas de cobre más grande del mundo](#), April 1, 2019.

⁷⁴¹ IACHR, [Press release 184/2019 - IACHR and SRESCER manifest their concern for oil spills in Peru and urge the State to take action to prevent, mitigate and investigate urgently](#), July 26, 2019.

⁷⁴² Kausa Justa, [Panorama TV: "Jueces Supremos César Hinostroza y Ángel Romero compartiendo resoluciones que absuelven a violadores"](#), July 24, 2018.

⁷⁴³ This issue was addressed in hearing 26, "Human rights and independence of the Office of the Public Prosecutor of the Nation of Peru," held during the 167th Period of Sessions of the IACHR, in which the requesters contributed information on constitutional allegations against key actors in the judiciary with the aim of obstructing the Public Ministry's actions in the framework of investigations into a broad network of corruption involving a number of members of Peru's political class.

⁷⁴⁴ Permanent Representation of Peru to the Organization of American States, Note No. 7-5-M/014, January 18, 2019.

the composition of the team of special prosecutors investigating cases of corruption. Lastly, the IACHR took note that the prosecutors who had been dismissed were reinstated.⁷⁴⁵

502. As regards the **rights of persons of diverse sexual orientations, gender identities/expressions, and sexual characteristics**, the IACHR has learned of the decision of the Supreme Court of Peru to find groundless a suit against the inclusion of a gender approach in the national curriculum.⁷⁴⁶ Additionally, it learned of acts of violence against LGBTI persons, including the murder of a 17-year-old boy committed by his father, allegedly based on his sexual orientation.⁷⁴⁷

503. Regarding the **rights of older persons**, during 2019, the IACHR monitored the progress of the debate in Congress on whether to adhere to the Inter-American Convention on Protecting the Human Rights of Older Persons. Following the bill's unanimous passage in April, its reconsideration was requested twice, something that, as of the approval date of this report, had not yet been carried out.⁷⁴⁸

504. Additionally, the Office of the Ombudsperson reported that older women in rural areas faced more limitations on exercising their rights: 99.51% did not receive a retirement pension, 88.02% had not finished primary school, and 63.76% were illiterate. In view of this, it asked the government to restructure national policy on older persons to address this situation.⁷⁴⁹ It noted that the main gaps are in education, where 43.73% of the older adult population has not completed primary school (33% of men and 53.35% of women) and 20.62% are illiterate (9.37% of men and 30.71% of women). Regarding pensions, it noted that 87.73% are not part of a pension system (78.57% of men and 94.71% of women), while in healthcare, 75.96% suffer chronic illnesses (71.08% of men and 80.34% of women) and 17.58% do not have insurance (17.99% of men and 17.22% of women). It also indicated that Peru did not have specialized statistical instruments for examining the situation of older persons from an integrated perspective that would enable them to have a better quality of life.⁷⁵⁰ Lastly, the IACHR took note of the lack of a budget for the continued operation of the Casa Hogar Santa María de la Caridad in Callao, Lima, which houses 32 older persons without families. It continued to operate thanks to private donations.⁷⁵¹

505. As regards the rights of **indigenous peoples**, the State reported on the existence of intercultural guidelines that help indigenous children, adolescents, and women access public services to prevent, respond to, and provide protection from sexual violence in a culturally and linguistically sensitive way and in a framework of recognition and appreciation for cultural and linguistic diversity.⁷⁵²

⁷⁴⁵ *La República*, [Chávarry retrocede y repone a Vela y Pérez en equipo Lava Jato](#), January 2, 2019.

⁷⁴⁶ *RPP*, [Corte Suprema declara infundada demanda contra enfoque de género en Currículo Nacional](#), April 3, 2019.

⁷⁴⁷ *Perú 21*, [Crimen en San Martín: Padre mató a balazos a su hijo de 17 años porque era gay](#), January 5, 2019.

⁷⁴⁸ FIAPAM, [Perú da el último paso para la adhesión a la Convención Interamericana de los Mayores](#), April 17, 2019; Central Informativa del Adulto Mayor, [Congreso peruano aprueba Convención para proteger los Derechos Humanos de las Personas Mayores](#), April 16, 2019; *La República*, [Karina Beteta se enfrenta con Glave y Aráoz por ausencia fujimorista en el Pleno](#); May 4, 2019; Universidad de Alcalá, [Perú: Congreso debe aprobar la Convención Interamericana sobre la Protección de Personas Mayores](#), June 17, 2019.

⁷⁴⁹ Office of the Ombudsperson, Report from Office 006, "Envejecer en el Perú: hacia el fortalecimiento de las políticas para personas adultas mayores," [Más del 99% de personas adultas mayores de zonas rurales no tienen acceso a pensión de jubilación](#), August 19, 2019.

⁷⁵⁰ Office of the Ombudsperson, Adjuntía Report 006, "Envejecer en el Perú: hacia el fortalecimiento de las políticas para personas adultas mayores," [Más del 99% de personas adultas mayores de zonas rurales no tienen acceso a pensión de jubilación](#), August 19, 2019.

⁷⁵¹ *La República*, [Callao: asilo de ancianos será cerrado por no contar con fondos](#), March 9, 2019; *RPP Noticias*, [Albergue de ancianos del Callao en riesgo de cerrar por falta de recursos](#), July 2, 2019.

⁷⁵² Republic of Peru, Report from the State of Peru on human rights progress for the preparation of the 2019 Annual Report, received on October 25, 2019.

506. However, during 2019, the IACHR noted a number of processes with the potential to affect indigenous peoples yet in which they were not consulted in a free, prior, and informed manner.⁷⁵³ The IACHR also observed with concern the effects of oil exploitation activities that were detrimental to indigenous peoples.⁷⁵⁴ During the 172nd Period of Sessions, the IACHR received striking information on the impacts that spills of toxic materials and exposure to mercury were having on the health of indigenous peoples. Civil society organizations stated that since 2014, mercury pollution had surpassed the permissible limit, and that to date, the Peruvian State had not identified its source or provided specialized care to the Nahua people, which are at the stage of final contact.⁷⁵⁵ Likewise, during the 173rd Period of Sessions, the IACHR was informed of the persistence of harm to indigenous peoples' right to health and a healthy environment in the Peruvian Amazon as a result of contamination from oil spills and extractive activities. Additionally, civil society organizations reported that the State of Peru was criminalizing rights defenders,⁷⁵⁶ a matter that was highlighted during the regional hearing on "Criminalization and Indigenous Justice" conducted in connection with the 172nd Period of Sessions of the IACHR.⁷⁵⁷

507. Finally, the Commission continues to monitor the administration of justice situation in connection with indigenous jurisdiction in Peru, including the criminal charges brought against some of its leaders, a matter highlighted during the regional hearing on "Criminalization and Indigenous Justice," held in connection with the 172nd Period of Sessions of the IACHR.⁷⁵⁸ In particular, the Commission received information from the Achuar people of Pastaza regarding possible cancellation of its right to recognition before the law⁷⁵⁹ and complaints filed against its authorities for allegedly having committed extortion and acts of violence against authority when they manifested their opposition to the entry of oil companies into their territory. During the same hearing, the IACHR was also informed that authorities of the Tres Islas native community had been sentenced to six years in prison.

508. As regards **women's rights**, the Commission learned of the enactment of Executive Decree 008-2019-MIMP, approving the National Gender Equality Policy.⁷⁶⁰ Also enacted was the executive decree approving the regulations of Law 27,942, the Prevention and Punishment of Sexual Harassment Act, which establishes that workplace equality can be impacted when women are subjected to violence aimed specifically at them, such as, for example, through sexual harassment in the workplace.⁷⁶¹

⁷⁵³ *France 24*, [Por que Perú alega que construir carreteras en la Amazonia no vulnera la legislación ambiental](#), March 22, 2019; *Actualidad ambiental*, [Ley que promueve carreteras en la Amazonia, pueblos indígenas en aislamiento y el TLC](#), January 14, 2019; *Gestión*, [Las Bambas: Comuneros decidirán hoy si retoman bloqueo de carretera](#), May 7, 2019; *Resumen Latinoamericano*, [Perú: Crece la tensión en Las Bambas, donde los comuneros siguen con sus reclamos a la minera MMG/Envían 2000 policías y 300 militares](#), March 25, 2019; *Perú 21*, [Ordenan prisión para 7 implicados en el bloqueo del corredor minero](#), March 23, 2019; *El Comercio*, [Polémica en Perú por construcción de aeropuerto cerca de Machu Picchu](#), May 17, 2019; *Actualidad*, [Polémica en Perú por construcción de un aeropuerto cerca de las ruinas del Machu Picchu](#), May 17, 2019; *Forbes*, [Hay polémica por nuevo aeropuerto ubicado cerca de Machu Picchu](#), May 23, 2019.

⁷⁵⁴ *Código Oculito*, [Derrame de petróleo causa un desastre ambiental en la Amazonia peruana](#), July 2, 2019; *El País*, [La maldición del petróleo envenena a los indígenas de la Amazonia peruana](#), May 25, 2019.

⁷⁵⁵ IACHR, [Human rights of indigenous peoples and isolation in the Peruvian Amazon](#), 172nd Period of Sessions; May 10, 2019.

⁷⁵⁶ IACHR, [Protection for indigenous communities, children and adolescents, and human rights defenders affected by pollution in Peru](#), September 24, 2019.

⁷⁵⁷ CIDH, [Audiencia Regional: Criminalización y justicia indígena](#), 10 de mayo de 2019.

⁷⁵⁸ CIDH, [Audiencia Regional: Criminalización y justicia indígena](#), 10 de mayo de 2019.

⁷⁵⁹ Federación de la Nacionalidad Achuar del Perú, Pueblo Achuar del Pastaza-Fenap defiende su personalidad jurídica como pueblo ante el Congreso de la República, 17 de enero de 2019.

⁷⁶⁰ *El Peruano*, [Decree No. 008-2019-MIMP National Gender Equality Policy](#), April 4, 2019

⁷⁶¹ *El Peruano*, Law 27,942, Prevention and Punishment of Sexual Harassment Act

509. Additionally, the Commission is also concerned at the number of femicides documented during the first half of 2019. It notes that through June 2019, the National Police had recorded 82 femicides in the country, 10 more than recorded during the same period in 2018.⁷⁶²

510. As regards the **rights of children and adolescents**, the Commission took note of the birth of 5,260 babies to child mothers under the age of 14—victims of sexual violence and forced pregnancy—between 2015 and 2019.⁷⁶³ Additionally, during a public hearing held in the framework of its 174th Period of Sessions, the IACHR was informed of the high rates of prevalence and tolerance of physical, psychological, and sexual violence against children and adolescents, a situation made worse by corruption and impunity.⁷⁶⁴ Along with this, the IACHR received information indicating a 25% increase in reports of sexual violence against children and adolescents over the last four years and of the launch of 27,281 criminal processes to investigate such crimes committed against children and adolescents between January and September 2019.⁷⁶⁵

511. Additionally, according to information from the Ministry of Health, published in the media, more than 4,085 children between the ages of 0 and 11 are exposed to heavy metals in Peru, mainly in the regions of Cerro de Pasco and Junín, which have mining activity.⁷⁶⁶

512. Lastly, the Commission welcomes with satisfaction the adoption of the “Standard Interview Profile for Children and Adolescents in a Gesell Chamber.”⁷⁶⁷ Additionally, the IACHR is pleased to note the MINSA’s approval of a new technical health regulation establishing a complete and specialized basic package of health services to be provided in healthcare centers with an approach that is based on gender, interculturality, social inclusion, and location.⁷⁶⁸

513. As regards the **rights of migrants and those seeking asylum and refugee status**, during a public hearing held in the framework of the 173rd Period of Sessions, the Commission was informed of the imposition of greater restrictions on the mobility and reception of Venezuelans in Peru, mainly by requiring a visa to enter Peru. This has particularly impacted their ability to seek asylum and the reunification of Venezuelan families. For its part, the State said the visa was necessary to guarantee the security of the population; however, it has adopted measures to allow documented status to the broad majority of Venezuelans in the country.⁷⁶⁹

514. Additionally, the IACHR received information on the situation of two Venezuelans—Gabriel Abusada James and Elis Elefteriu Fernández—facing an order for their detention and later transfer to Venezuela based on an extradition request made by Venezuela, which seeks to prosecute them for the alleged crimes of deception and fraud. This is despite the existence of a *habeas corpus* ruling finding that the INTERPOL Red Notice is not applicable in Peru and ordering it suspended.⁷⁷⁰ Additionally, the Commission was informed that all the judicial proceedings were arbitrary and lacked independence and impartiality. This led the IACHR

⁷⁶² *La República*, [En seis meses la Policía registró 82 feminicidios](#), July 2, 2019; *Perú 21*, [Van 82 feminicidios en lo que va del año](#), según la Policía, July 2, 2019.

⁷⁶³ *Nómada*, [Perú: Más de 5 mil niñas obligadas a ser madres los últimos cuatro años](#), June 3, 2019.

⁷⁶⁴ IACHR, [Hearing on sexual violence against children and adolescents in Peru](#), November 11, 2019.

⁷⁶⁵ Instituto Promoviendo Desarrollo Social (IPRODES) and Acción por los Niños (APN), Legal standards on age and gender equality that guarantee judicial participation of children and adolescents who are victims of and/or witnesses to violence, Report to the Inter-American Commission on Human Rights (IACHR) during its 174th Period of Sessions, “Sexual violence against children and adolescents in Peru,” IACHR archive, 2019.

[Hearing on sexual violence against children and adolescents in Peru](#), November 11, 2019.

⁷⁶⁶ *Perú 21*, [Más de 4.000 niños están expuestos a metales pesados en Perú](#), July 8, 2019.

⁷⁶⁷ *El Peruano*, [Administrative Resolution 277/2019-CE-PI](#), July 3, 2019.

⁷⁶⁸ Government of Peru, Ministry of Health, [Ministerial Resolution 1001-2019-MINSA](#), October 25, 2019. Kausa Justa, [MINSA: Nueva Norma Técnica de Salud para la Atención Integral de Salud de Adolescentes](#), October 29, 2019.

⁷⁶⁹ IACHR, Public Hearing on [“Human rights of Venezuelan migrants and refugees in Peru.”](#) September 24, 2019.

⁷⁷⁰ IACHR, Letter Requesting Information dated March 6, 2019, IACHR archive.

to request information from the State of Peru under the provisions of article 41 of the American Convention, in view of the gravity of the facts.⁷⁷¹ The Peruvian State responded that the extradition process remains pending resolution. At the same time, it stated its respect for the right to defense at trial and for providing defendants with an opportunity to file appeals. It described the factors that Peru takes into account in an extradition proceeding.⁷⁷²

515. The Commission takes note of the measures adopted by Peru to combat human trafficking and the illegal trafficking of migrants. According to the information provided by the State, the Penal Code on punishments for the crime of sexual exploitation was amended to put special emphasis on protecting women, children, and adolescents. Also, a fine was added for the criminal offense of forced labor.⁷⁷³ The IACHR also welcomes the approval of the Third National Plan on the Fight against Forced Labor 2019-2022 through an executive decree issued by the President of the Republic, which takes into consideration the special vulnerability of migrants.⁷⁷⁴

516. As regards **freedom of expression**, during 2019, the Office of the Special Rapporteur took note of campaigns of harassment against investigative journalism in Peru using offenses codified in criminal law (slander and defamation) as a mechanism to establish subsequent liability for freedom of expression for journalists and communicators and thereby produce an environment of self-censorship.

517. Likewise, the Office of the Special Rapporteur was informed of bills presented in the Senate seeking to place State controls on information and on the media, as well as other attempts to regulate and punish digital communication and the flow of information on social networks, impose the right to forget under certain circumstances, and regulate the use of personal information, all of which could lead to a tendency toward censorship. On September 30, the President of the Republic issued Executive Decree 165-2019-PCM dissolving the Congress of the Republic of Peru and scheduling new elections for January 26, 2020, to finish out the parliamentary term established in the Constitution for the members of Congress elected in the 2016 general elections. On September 9, the Office of the President of the Republic approved a decree authorizing elections authorities to issue the rules, regulations, and other provisions necessary to hold parliamentary elections on January 26, 2020.

DOMINICAN REPUBLIC

- **General considerations**

518. Regarding **progress**, worth highlighting are the measures implemented to address the rights of children and adolescents,⁷⁷⁵ the reduction in the murder rate, and the finding that provisions limiting freedom of expression during elections were unconstitutional.

519. In terms of **challenges**, the IACHR notes the protests that have continued in the Dominican Republic. The Commission also notes with concern the citizen security situation, as well as the situation of violence against women. Additionally, the information available indicates that acts of violence, aggression, and discrimination against Haitians persist in the country.

⁷⁷¹ IACHR, Letter Requesting Information dated March 6, 2019, IACHR archive.

⁷⁷² Permanent Representation of Peru to the Organization of American States, Note No. 7-5-M/060, March 21, 2019. IACHR Archive.

⁷⁷³ Permanent Representation of Peru to the Organization of American States, Note No. 7-5-M/206, October 25, 2019. IACHR Archive.

⁷⁷⁴ Permanent Representation of Peru to the Organization of American States, Note No. 7-5-M/206, October 25, 2019. IACHR Archive.

⁷⁷⁵ Ministry of Economy, Planning, and Development, [Government increases public investment in children and adolescents](#), March 12, 2019. *El Caribe*, [Presentan avances y desafíos en el cumplimiento de los derechos de la niñez a 30 años de la Convención](#), November 18, 2019. *Listín Diario*, [13% de los niños dominicanos realizan algún tipo de trabajo](#), November 20, 2019.

520. The State did not respond to the request for information sent to prepare this chapter of the annual report.

- **Specific issues**

521. As regards **human rights institutions**, the IACHR notes the publication of the first 6-month report on the implementation of the National Human Rights Plan. The actions implemented by the State include: i) the presentation of a draft bill to punish corporal punishment against children and adolescents in any context; ii) the implementation of measures to guarantee the right to vote for persons with physical disabilities; iii) the implementation of teacher evaluation processes; iv) the draft bill to increase the minimum civil marriage age; and v) providing human rights training to State agents.

522. Regarding **democratic institutions**, the Commission takes note of the swearing in of the judges forming the Supreme Court of Justice.⁷⁷⁶ Regarding the exercise of social protest, in 2019, the IACHR observed social protests that took place in the Dominican Republic. It specifically notes the protests to reject a potential amendment to the Constitution that would allow presidents to seek reelection,⁷⁷⁷ as well as the protests that took place in the framework of the results published from the primary elections.⁷⁷⁸

523. Regarding **access to justice**, the Commission observes that according to data from the Office of the President of the Supreme Court of Justice, published by the local media, 127 of the country's 135 courts have eliminated the procedural backlog as part of the National Plan for the Fight against the Judicial Backlog.⁷⁷⁹

524. As regards **citizen security**, the Commission notes that, according to figures from the Observatorio de Seguridad Ciudadana de la República Dominicana (OSC-RD), the murder rate of 9.6 murders per 100,000 residents⁷⁸⁰ is lower than the rate reported for 2018.⁷⁸¹ The OSC-RD reported a total of 3,047 violent deaths between January and September 2019,⁷⁸² of which 742 were murders. The figure represents a reduction of 45 murders compared to the same period in 2018. Regarding this, the IACHR has pointed to public security as one of the main concerns of the Dominican population.⁷⁸³ The Commission notes the commitment made by the State to investigate reports of excessive use of force, extrajudicial executions, rapes committed by security forces, and arbitrary detentions.⁷⁸⁴

525. Regarding **women's rights**, the IACHR observes that, according to public reports, women in the Dominican Republic suffer from gender-based violence, particularly domestic violence. The Commission also took note of the repeated use of rape and other forms of violence committed by the police against sex

⁷⁷⁶ *Diario Libre*, [Estos son los nueve jueces de la Suprema Corte de Justicia](#), April 5, 2019. *Acento*, [Presidente Danilo Medina juramenta a los jueces de la Suprema Corte de Justicia](#), April 5, 2019.

⁷⁷⁷ *Actualidad RT*, [Multitudinaria protesta en República Dominicana contra la corrupción y modificación de la Constitución](#), July 22, 2019. *Nodal*, [República Dominicana: protestas contra la reforma constitucional para la re-postulación del presidente Medina](#), June 26, 2019. *Nodal*, [Rep. Dominicana: coalición en defensa de la Constitución junta firmas en rechazo a la reforma](#), July 5, 2019.

⁷⁷⁸ *CNN*, [Manifestantes piden que se anulen los resultados de las elecciones primarias en República Dominicana](#), October 8, 2019. *Actualidad RT*, [Expresidente Leonel Fernández desconoce su derrota en las primarias de República Dominicana y llama a "la defensa de la voluntad popular"](#), October 8, 2019.

⁷⁷⁹ *El Caribe*, [Disminución consistente de la mora judicial](#), April 5, 2019.

⁷⁸⁰ Observatorio de Seguridad Ciudadana de la República Dominicana, [Statistical Bulletin – September 2019](#), November 2019, pg. 3.

⁷⁸¹ IACHR, [Annual Report 2018, Cap IV.A, Dominican Republic](#), para 380.

⁷⁸² Observatorio de Seguridad Ciudadana de la República Dominicana, [Statistical Bulletin – September 2019](#), November 2019, pg. 2.

⁷⁸³ IACHR, [Annual Report 2018, Cap IV.A, Dominican Republic](#), para 380.

⁷⁸⁴ Human Rights Council, Report of the Working Group on the Universal Periodic Review, Dominican Republic, Addendum, [Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review](#), A/HRC/41/16/Add.1, 41st period of sessions, May 27, 2019, paras. 10, pg. 3.

workers, incidents that remained in impunity due to the State's failure to investigate.⁷⁸⁵ The Commission calls on the State to ensure that all cases of violence against women are effectively investigated and that those responsible are prosecuted and do not enjoy impunity. It also asks the State to provide effective protection from rape and sexual violence and guarantee the provision of a justice system that is gender-sensitive for women who have been the victims of rape.

526. As regards the **rights of migrants**, the Commission has recognized the measures implemented by the State to gradually move toward guaranteeing the rights of migrants in the Dominican Republic. At the same time, the IACHR has warned that challenges persist to overcoming the structural discrimination that exists against persons who are of Haitian descent or perceived as such in the Dominican Republic.

527. In this regard, acts of violence and aggression committed against Haitians were reported during 2019. According to the information available, these acts of violence were committed by State security agents and migration agents, as well as by persons of Dominican nationality.⁷⁸⁶ The information also indicates that the discourse of government authorities could be among the main drivers of xenophobia against the migrant population.⁷⁸⁷ The IACHR also observes with concern the militarization of at least four points along the border with Haiti. This was in response to a potential increase in the flow of Haitians trying to flee the crisis facing their country.⁷⁸⁸

528. Regarding the rights of migrants, persons requesting asylum or refugee status, stateless persons, and victims of human trafficking, the IACHR has chosen to follow up through Chapter V of its 2019 Annual Report.

529. Regarding internally displaced individuals, the IACHR notes that, according to the most recent figures from the Internal Displacement Monitoring Centre (IDMC), from January to December 2018, a total of 27,000 people were displaced by natural disasters.⁷⁸⁹

530. With regard to **older persons**, the Commission views positively that during 2019, the rate of abandonment of older persons declined by more than 60%, and that 98% of the population of older persons has medical insurance under the subsidized regime of the National Health Insurance.⁷⁹⁰ Likewise, according to figures published by the National Council on Aged Persons (CONAPE), 78% of older persons who did not know how to read or write were taught literacy through the “Quisqueya Aprende Contigo” program.⁷⁹¹ Additionally, a campaign was carried out to provide identification documents⁷⁹² to older persons, along with training on electoral participation, as this population—according to voting data estimates from the Central Electoral

⁷⁸⁵ Amnesty International, [Dominican Republic: Dominican Republic: Police routinely use rape and commit other forms of torture to punish women sex workers](#), March 28, 2019; *The Washington Post*, [Las trabajadoras sexuales en República Dominicana necesitamos protección de nuestro propio Estado](#), October 9, 2019.

⁷⁸⁶ *SputnikNews*, [República Dominicana: aumentan las deportaciones y la violencia contra haitianos](#), July 16, 2019. *Acento*, [Colectivo #HaitianosRD denuncia ataques racistas en Santiago, y responsabiliza a la alcaldía](#), June 18, 2019.

⁷⁸⁷ *SputnikNews*, [República Dominicana: aumentan las deportaciones y la violencia contra haitianos](#), July 16, 2019.

⁷⁸⁸ *CNN*, [República Dominicana despliega cerca de 10.000 militares en la frontera con Haití ante protestas en ese país](#), October 31, 2019.

⁷⁸⁹ IDMC – NRC, [Global Report on Internal Displacement](#), May 2019, pg. 118.

⁷⁹⁰ Dominican Republic, National Council on Aged Persons (CONAPE), [DR's older adults are empowered thanks to the work done by CONAPE toward full inclusion](#), October 2, 2019 and [CONAPE and SeNaSa deliver medical insurance to dozens of older adults](#), September 12, 2019; Dominican Republic, [Report on the declaration and action platform of Beijing+25](#), May 30, 2019.

⁷⁹¹ Dominican Republic, National Council on Aged Persons (CONAPE), [DR's older adults are empowered thanks to the work done by CONAPE toward full inclusion](#), October 2, 2019.

⁷⁹² Dominican Republic, CONAPE, [CONAPE and ICE manage operation to provide identification documents to older adults throughout the country](#), September 4, 2019.

Council—comprises 33% of election participants.⁷⁹³ Additionally, the IACHR observes that, as part of its Digital Republic program, the Ministry of Education and CONAPE conduct the program Info-Alfabetización through the program Pasantes con Sabiduría, where training has been offered on using computers and technology equipment to 1,200 older adults.⁷⁹⁴

531. Regarding the **rights of children and adolescents**, the Commission welcomes the reduction in child malnutrition rates. At the same time, it views with concern the increase in the number of school-age children who are overweight and obese.⁷⁹⁵ Likewise, based on information published by local media, the Commission observes with concern the persistence of child labor and child marriage in the Dominican Republic.⁷⁹⁶

532. Lastly, with regard to **freedom of expression**, the Office of the Special Rapporteur took note of the ruling issued by the Constitutional Court of the Dominican Republic that some articles of the Political Parties, Groups, and Movements Act and the Electoral Act were unconstitutional. The ruling was against provisions that threatened freedom of expression during elections. These provisions established punishments of up to 10 years in prison for crimes of defamation committed against candidates and political parties and 3 to 10 years in prison for violations of ethical, legal, and constitutional regulations of the use of print, electronic, and digital media.

533. Along the same lines, the Office of the Special Rapporteur underscores the shutdown of TV program “El Jarabe,” hosted by journalist Marino Zapete, who had alleged the judiciary’s interference as a result of pressure from the Procurator General of the Republic, Jean Alain Rodríguez, and his sister, Maybeth Rodríguez. Zapete had, in a letter, accused the Procurator of conducting a campaign of harassment against him after the TV show he hosted published contracts between the Procurator’s sister, Maybeth, and the Ministry of Public Works, which violated the provisions of the Public Procurement and Contracting Act.

534. The Office of the Special Rapporteur also received information on e-mailed threats against *El Día* journalist Teresa Casado from drug trafficking groups because of several articles she had published. Consequently, the National Office on Drug Control reported that it had been directed by the Executive Branch and the Office of the Procurator General of the Republic to provide the journalist with the protection necessary.

SAINT KITTS AND NEVIS

- **General considerations**

535. Regarding **progress**, the IACHR highlights the measures that St. Kitts and Nevis is implementing to reduce crime rates in the country. The Commission also welcomes the introduction of changes to the draft prison bill and draft Magistrate’s Code of Procedure to strengthen the State’s capacity to promote the rehabilitation of persons deprived of liberty.

536. Regarding **challenges**, the IACHR notes with concern the existence of legislation criminalizing consensual sex between LGBTI adults in the country.

537. The State did not respond to the request for information sent to prepare this chapter.

⁷⁹³ Dominican Republic, CONAPE, [Older adults are the second largest voting bloc in this Sunday’s primaries](#), October 4, 2019; and [DR’s older adults are empowered thanks to the work done by CONAPE toward full inclusion](#), October 2, 2019.

⁷⁹⁴ Dominican Republic, [Report on the declaration and action platform of Beijing+25](#), May 30, 2019.

⁷⁹⁵ UNICEF, [Se reduce la desnutrición infantil crónica en República Dominicana y se incrementa el sobrepeso y la obesidad afectando al 33% de los niños en edad escolar](#), October 15, 2019.

⁷⁹⁶ *Acento*, [República Dominicana registra 38 feminicidios en primer semestre, más de dos tercios de niñez sufren violencia](#), November 7, 2019.

- **Specific issues**

538. Regarding **human rights institutions**, the State of St. Kitts and Nevis has an Office of the Ombudsman in St. Kitts and Nevis, an institution that is independent and in charge of promoting and protecting human rights. In this regard, it should be noted that the institution is part of the Caribbean Ombudsman Association and the Commonwealth Forum of National Human Rights Institutions.⁷⁹⁷

539. Regarding **citizen security**, the IACHR appreciates the efforts of St. Kitts and Nevis to reduce the country's crime rate. According to the Royal St. Christopher and Nevis Police Force, the country saw its crime rate decline by 48% during the first two months of 2019.⁷⁹⁸ Between January and August, the police reported a 28% drop in serious crimes. Specifically, the homicide rate declined by 25% and the rate of nonfatal shootings and robberies declined by 30% and 7%, respectively. This reduction is partly the result of a project called the "Peace Initiative," presented in March 2019. The program includes agricultural and construction enterprises as well as entrepreneurship and other activities to help gang members in the country change their lifestyles to a more productive one.⁷⁹⁹

540. The Commission also highlights the Police Records Management Information System (PRMIS), which is the result of a collaboration between St. Kitts and Nevis and the United States. The aim of the project is to help the police force improve data management and analysis to strengthen its ability to respond to crime and help reduce crime in the country.⁸⁰⁰

541. With regard to **persons deprived of liberty**, the IACHR takes note of the amendment to the Prison Act and the Magistrate's Code of Procedure Act by Parliament. The aim of these new provisions is to restructure the penitentiary system by introducing the office of the "Commissioner of Corrections," clarifying the office's role and responsibilities. It likewise appoints an "Assistant Commissioner of Corrections," to be in charge of operations. Also, it appoints a "Chaplain" for helping inmates through the reintegration and rehabilitation process.⁸⁰¹ Second, Chapter 3 of the Magistrates Code of Procedure Act establishes the function of Commissioner of Corrections, prison custody, and the preparation of reports on the status and condition of persons deprived of liberty.⁸⁰²

542. As regards the **death penalty**, the IACHR finds it worrisome that it is still on the books in the country's laws, even though no executions have been carried out in recent years. The Commission notes, moreover, that, as of December 2018, there was no one in the State sentenced to the death penalty, according to Amnesty International's report on the subject of April 2019.⁸⁰³

543. With regard to **LGBTI persons**, the IACHR reiterates with concern, as described in its 2018 annual report, the existence of a law criminalizing consensual sexual relations between persons of the same sex (sections 56 and 57 of the Offenses against the Person Act).⁸⁰⁴

⁷⁹⁷ [Commonwealth Forum of National Human Rights Institutions](#).

⁷⁹⁸ SKN Vibes, "[PM Harris encourages public to continue cooperation with police following 48% drop in crime](#)", March 13, 2019.

⁷⁹⁹ WIC News, "[Public support still needed to consolidate police gains in St Kitts-Nevis: Brandy](#)", August 14, 2019.

⁸⁰⁰ USAID, "[United States Government and the Government of St. Kitts and Nevis Join Forces To Digitize Crime and Violence Data](#)", September 18, 2019.

⁸⁰¹ Times Caribbean, "[Prison \(Amendment\) Bill, 2019 passed safely Through the National Assembly in St. Kitts-Nevis](#)," May 10, 2019.

⁸⁰² Times Caribbean, "[Magistrate's Code of Procedure \(Amendment\) Bill, 2019 Passed in St. Kitts-Nevis' Federal Parliament](#)," May 13, 2019.

⁸⁰³ Amnesty International, [Global Report: Death Sentences and Executions](#), April 2019, p. 14.

⁸⁰⁴ IACHR, [Annual Report 2018](#), para. 393.

ST. VINCENT AND THE GRENADINES

- **General considerations**

544. Regarding **progress**, the IACHR welcomes the first woman governor general of St. Vincent and the Grenadines.

545. Regarding **challenges**, the IACHR reiterates its concern at the inclusion of the death penalty in the country's legislation and the criminalization of the LGBTI population.

546. The State did not respond to the request for information sent to prepare this chapter.

- **Specific issues**

547. Regarding the crosscutting theme of **human rights institutions**, the IACHR views with concern the lack of a national independent institution for promoting and protecting human rights in the country.⁸⁰⁵ The Commission recalls the importance of having an agency in charge of protecting fundamental rights.

548. As regards the **death penalty**, the IACHR finds it worrisome that it is still on the books in the country's laws, even though no executions have been carried out in recent years. The Commission notes, moreover, that, as of December 2018, there was no one in the State sentenced to the death penalty, according to Amnesty International's report on the subject of April 2019.⁸⁰⁶

549. With regard to the political participation of **women**, the IACHR was informed that in 2019, the first woman governor general of St. Vincent and the Grenadines, Ms. Susan Dougan, took office.⁸⁰⁷

550. As in its 2018 Annual Report, the Commission continues to view with concern the existing criminalization of **LGBTI persons**, in which discrimination, violence, and stigmatization affect multiple aspects of their lives.⁸⁰⁸

ST. LUCIA

- **General considerations**

551. Regarding **progress**, the IACHR highlights the initiatives of the State of St. Lucia to battle insecurity in the country, the measures adopted to improve the judicial system, and the measures to reintegrate persons deprived of liberty into society.

552. Regarding **challenges**, the IACHR notes the persistence of the criminalization of LGBTI persons.

553. The State did not respond to the request for information sent to prepare this chapter.

⁸⁰⁵https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/VCT/CO/2/Add.1&Lang=En

⁸⁰⁶ Amnesty International, [Global Report: Death Sentences and Executions](#), April 2019, p. 14.

⁸⁰⁷ Barbados today, "[St Vincent and the Grenadines has first female Governor General](#)", August 1, 2019.

⁸⁰⁸ IACHR, [Annual Report 2018](#), para. 401.

- **Specific issues**

554. Regarding the crosscutting issue of **human rights institutions**, the IACHR recognizes the Office of the Ombudsman of St. Lucia and its participation as a member of the Caribbean Ombudsman Association. As a member of this regional group, the office participated in the 10th Conference of the Caribbean Ombudsman Association, in the framework of which the Bermuda Declaration⁸⁰⁹ was adopted, which highlights strengthening and maintaining independent relationships for improved effectiveness of local ombudsman offices. Also, the St. Lucia office assumed the presidency of the Association for the 2019-2021 period.⁸¹⁰ It also should be noted that the Office is a member of the Commonwealth Forum of National Human Rights Institutions.⁸¹¹

555. The IACHR highlights St. Lucia's efforts to train its citizen security personnel on human rights and social justice issues.⁸¹²

556. Regarding **citizen security** in particular, the IACHR highlights the efforts of the government of St. Lucia to combat insecurity in the country. Under the Medium-Term Development Strategy 2019-2022, citizen security is one of the central components. Under the strategic plan, the State's objective is to build its capacity to investigate and prosecute and reduce serious crime in the country by 45%.⁸¹³ As part of the strategy, the government announced it would increase the presence of police in high-crime areas in order to improve crime prevention and detect violence more quickly, among other measures.⁸¹⁴ The government has also increased its surveillance capacity with a \$5.8 million investment in the Safe City project to install high definition CCTV cameras, of which \$1.8 million has been allocated for the 2019-2020 period.⁸¹⁵

557. The Commission also noted that the Castries Police set up a direct 3-digit emergency line for rapid response to incidents. This free emergency line will be available 24 hours, seven days a week. According to the mayor of the city, the line is in addition to the official "999" system to reduce pressure on it and enable the public to report illegal activities and for general questions.⁸¹⁶

558. As regards **access to justice**, the IACHR appreciates the measures adopted by the State to improve the judicial system in the country. The government has improved court infrastructure and added to the human resources of the offices of the Director of Public Prosecutions and the Attorney General. The Commission also underscores that the reopening of criminal courts has enabled the elimination of 25% of the backlog in the criminal judicial system. It is also worth noting that the government has presented a budget that provides new funds to increase the capacity of the forensic laboratory in order to help reduce the backlog in evidence provided for pending criminal cases.⁸¹⁷

559. With regard to the **rights of persons deprived of liberty**, the IACHR welcomes the announcement of measures by the State of St. Lucia to address the social reintegration of inmates. According to the prime minister, social reintegration is also a key component of the Medium-Term Development Strategy 2019-2022. According to available information, the inmates at the Bordelais Correctional Facility and juveniles at the Boys Training Centre will be offered job skills training to improve their employment options, thereby

⁸⁰⁹ <http://cloudfront.bernews.com/wp-content/uploads/2019/05/CAROA-Bermuda-Declaration-2019.pdf>

⁸¹⁰ <https://smn-news.com/st-maarten-st-martin-news/32039-10th-biennial-caroa-conference-and-training-bermuda-2019.html>

⁸¹¹ [Commonwealth Forum of National Human Rights Institutions.](#)

⁸¹² <https://stluciatimes.com/saint-lucia-police-get-human-rights-training/>

⁸¹³ Government of Saint Lucia, "[Security a key focus for government](#)," April 25, 2019.

⁸¹⁴ Government of Saint Lucia, "[Increased police patrols part of national crime strategy](#)," April 25, 2019.

⁸¹⁵ The Daily Herald, "[Chastanet outline 'Radical' approach to citizen safety](#)," November 25, 2019.

⁸¹⁶ Government of Saint Lucia, "[City Police to launch emergency hotline](#)," February 4, 2019.

⁸¹⁷ St Lucia Times, "[Saint Lucia Government Wants to Reduce Serious Crime By 45 percent](#)," April 25, 2019.

reducing crime in the country.⁸¹⁸ As part of this strategy, the government plans to reduce recidivism in St. Lucia by 30%.⁸¹⁹ The Commission also highlights the introduction of a conditional release system in 2019, the objective of which is to support the transition of inmates to improve reintegration and social life.⁸²⁰

560. As regards the **death penalty**, the IACHR finds it worrisome that it is still on the books in the country's laws, even though no executions have been carried out in recent years. The Commission notes, moreover, that, as of December 2018, there was no one in the State sentenced to the death penalty, according to Amnesty International's report on the subject of April 2019.⁸²¹

561. As regards the human rights of **LGBTI persons**, the IACHR expresses concern, as it did in its 2018 Annual Report, that the State's Criminal Code still codifies the criminal offenses of "buggery" and "serious indecency," which have a stigmatizing effect on this population.⁸²²

SURINAME

- **General considerations**

562. Regarding **progress**, the Commission highlights Suriname's adoption of the Gender Vision 2021-2035 policy and the Gender Action Plan 2019-2020.

563. Regarding **challenges**, the IACHR notes the challenges with regard to the rights of indigenous and tribal peoples in Suriname, as well as the challenges surrounding gender-based violence in the country.

564. The State did not respond to the request for information sent to prepare this chapter.

- **Specific issues**

565. As regards **human rights institutions**, although in 2016, the country established the National Human Rights Institute to promote and protect human rights in Suriname, its head has not yet been appointed.⁸²³

566. Regarding **citizen security**, the IACHR observes that according to Transparency International's 2018 Corruption Perceptions Index, Suriname is ranked 73 out of the 180 countries analyzed. According to this report, the country received a score of 43 out of a possible 100 points,⁸²⁴ a corruption perception level that is stable and high.

567. Regarding **memory, truth, and justice**, the IACHR takes note of the ruling of the Martial Court of Suriname convicting the current president, Desiré Delano Bouterse, and other accused individuals for the December 1982 murder of political opponents in Suriname.⁸²⁵ On November 29, 2019, a Paramaribo court found the current president of Suriname guilty of killing 15 political opponents in December 1982. Specifically, the court found that Bouterse had supervised an operation in which soldiers under his command kidnapped

⁸¹⁸ Government of Saint Lucia, "[Security a key focus for government](#)," April 25, 2019.

⁸¹⁹ Government of Saint Lucia, "[Increased police patrols part of national crime strategy](#)," April 25, 2019.

⁸²⁰ St Lucia Times, "[Saint Lucia Government Wants to Reduce Serious Crime By 45 percent](#)," April 25, 2019.

⁸²¹ Amnesty International, [Global Report: Death Sentences and Executions](#), April 2019, p. 13.

⁸²² IACHR, [Annual Report 2018](#), para. 409.

⁸²³ Republic of Surinam, International Convention on the Elimination of all forms of Racial Discrimination, Combined Sixteenth to Eighteenth Periodic Report (2015-2019). July 31, 2019, para. 22.

⁸²⁴ Transparency International, [Corruption Perceptions Index 2018](#), 2019.

⁸²⁵ NOS, "[Twenty years in Prison for Surinamese president Bouterse](#)," November 29, 2019.

16 well-known government critics, including lawyers, journalists, and university professors, and killed 15 of them in the colonial fortress in Paramaribo.

568. The court convicted Mr. Bouterse and sentenced him to 20 years in prison, in accordance with the charges from the prosecutor. The Court Martial also convicted six military officers together with President Bouterse for their role in the murders that took place in 1982. At the same time, the Court acquitted former battalion commander Etienne Boerenveen and former soldier Jimmy Stolk—who were among the 25 defendants—for lack of evidence. This decision was issued by a panel of three judges and concluded a long trial following 12 years of judicial proceedings beginning in 2007. Under Suriname law, the President can appeal this decision.⁸²⁶

569. In this regard, the IACHR highlights the importance of the separation of powers through a system of checks and balances to guarantee effective oversight between the different branches of government. The independence of the judicial branch is a fundamental characteristic of the separation of powers and essential to guarantee the rule of law. The Commission urges the State to continue to comply with its obligation to investigate, prosecute, and punish those responsible for grave crimes and human rights violations.

570. During a visit to Suriname from October 30 to November 5, 2019, the IACHR received information on the economic, social, cultural, and environmental rights of **indigenous and tribal peoples** in the country. According to this information, the water in the region between Suriname and French Guyana was polluted by mercury due to mining activities.⁸²⁷ The IACHR has received information indicating that 134,829 kg of mercury is being extracted per year. This pollution is particularly affecting the health of the indigenous and tribal population and their environment. It is also having a negative impact on the economy of persons whose income is based on the sale of fish, such as the Moiwana people.⁸²⁸

571. The IACHR has also received information indicating the persistence of conflict over land title on the territories of indigenous peoples in Suriname as a result of the contracts and concessions the government has granted on those lands.⁸²⁹ Regarding this, the Commission has learned of the existence of a bill that would grant Maroon peoples and indigenous peoples title to their territories, pursuant to ILO Convention 169. However, indigenous and tribal peoples are not aware of how the law applies in this regard and the real capacity for evicting miners from their territories.⁸³⁰

572. Regarding **women's rights**, the Commission congratulates Suriname on its adoption of the Gender Vision 2021-2035 policy and the Gender Action Plan 2019-2020, which focuses mainly on eradicating gender-based violence and promoting the economic participation of women.⁸³¹ The Commission also congratulates the State for its enactment of the Family Job Protection Act (2019), which establishes that women have the right to 16 weeks of paid parental leave, while men have a right to seven days. However, the IACHR expects Suriname to continue moving toward childcare policies that are based on an equitable distribution of labor between parents, in the form of periods of paid leave distributed between both parents independent of gender.

⁸²⁶ Aljazeera, "[Suriname President Bouterse sentenced to 20 years for killings](#)," December 1, 2019.

⁸²⁷ IACHR, Promotional visit to Suriname, Meeting with indigenous peoples and Maroon organizations, IACHR archive, October 20 to November 5, 2019.

⁸²⁸ IACHR, Promotional visit to Suriname, Meeting with indigenous peoples and Maroon organizations, IACHR archive, October 30 November 5, 2019.

⁸²⁹ IACHR, Promotional visit to Suriname, Meeting with the United Nations Population Fund team, IACHR archive, October 30 to November 5, 2019.

⁸³⁰ IACHR, Promotional visit to Suriname, Meeting with indigenous peoples and Maroon organizations, IACHR archive, October 30 to December 5, 2019.

⁸³¹ Republic of Suriname, [National Report on Progress in the Application of the Montevideo Strategy for Implementation of the Regional Gender Agenda within the Sustainable Development Framework by 2030](#), May 2019.

573. The IACHR also continues to note the challenge of finding disaggregated and updated data on gender-based violence in the country. The IACHR recognizes the State's effort to close this gap by launching an information management system for the police in April 2019, which will store crime information centrally. The IACHR invites the State to take a gender approach to implementing the system and to train police officers and other relevant actors on proper intake of reports of gender-based violence and follow-up thereon.⁸³²

TRINIDAD AND TOBAGO

- **General considerations**

574. Regarding the principle **progress**, the Commission welcomes the drop in the crime rate in Trinidad and Tobago, the efforts to provide documents to Venezuelan migrants, and the adoption of the law to provide differentiated legal treatment to the possession of cannabis, which could reduce the number of persons deprived of liberty for cases of simple possession.

575. Regarding the principal **challenges**, the Commission expresses its concern at the long pretrial detention and the situation of persons deprived of liberty in Trinidad and Tobago. The Commission also notes the situation of violence and discrimination facing the LGBTI population, women, and girls, as well as the obligatory death penalty that remains in place for cases of murder.

576. The State did not respond to the request for information sent to prepare this chapter.

- **Specific issues**

577. As regards **human rights institutions**, Trinidad and Tobago has an Office of the Ombudsman. It should be noted that the head of this office was elected for the 2019-2021 period as a member of the Caribbean Ombudsman Association Council during the 10th Conference of the Caribbean Ombudsman Association.⁸³³ It also should be noted that the Office is a member of the Commonwealth Forum of National Human Rights Institutions.⁸³⁴

578. Regarding **citizen security**, the IACHR welcomes the drop in the crime rate in the State of Trinidad and Tobago. According to statistics from the Trinidad and Tobago Police Service, between January and September 2019, the crime rate dropped by almost 20% compared to figures from the same period in 2018. These figures indicate a considerable decline in major crimes—except murder, which increased by three cases. While a total of 10,304 criminal incidents were recorded during this period in 2018, the number of incidents recorded for 2019 was 8,250, a decline of 2,054 cases. In particular, rapes and sex crimes declined to 297 incidents, compared to 628 cases during the same period in 2018. Additionally, the 2,428 cases of robberies reported in 2018 declined to 2,012 for this year. Likewise, injuries and quarrels declined to 489 incidents and robberies to 1,478 incidents, compared to 570 and 1,505 in 2018, respectively.

579. As regards **persons deprived of liberty**, the IACHR expresses concern at the practice of prolonged pretrial detention in Trinidad and Tobago, as well as at the detention conditions of persons deprived of liberty in the country. During its 173rd period of sessions, the IACHR held a hearing on detention in Trinidad and Tobago during which the Commission received information on pretrial detention conditions. It was reported that the country is holding 2,271 inmates in pretrial detention. Over one third (34%) have reportedly been detained for more than 5 years and 12.5% have been awaiting trial for more than 10 years. The population awaiting trial includes, inter alia, women, most of whom were arrested on charges of murder, when that crime is often a consequence of cases of domestic violence. Specifically, it was reported that 58.5% of the women,

⁸³² Republic of Suriname, [National Review Implementation of the Beijing Declaration and Platform for Action + 25](#), August 2019.

⁸³³ Bernews, [Ombudsman Conference a "Great Success"](#), May 30, 2019

⁸³⁴ [Commonwealth Forum of National Human Rights Institutions](#).

representing almost two-thirds of all women in prison, had been charged with murder in connection with cases of domestic violence.⁸³⁵

580. As regards detention conditions in Trinidad and Tobago, the IACHR notes that prison overcrowding persists. According to the information collected, the prison in Port of Spain, which was designed to house 250 inmates, instead holds 595. Likewise, the pretrial detention jail, which has capacity to house 655 inmates, was holding 1,049 inmates, according to 2016 figures, which are the most recent available. It was also reported that cells measuring 80 square feet could be holding as many as nine prisoners.

581. Furthermore, at the public hearing held during its 173rd Period of Sessions, the Commission also observed with concern the detention conditions for **women** and young women. The organizations that had requested the hearing reported that women's prisons house both convicts and detainees awaiting trial.

582. In this context, the IACHR reminds the State of Trinidad and Tobago of the application of prison alternatives to address overcrowded prisons in order to guarantee the well-being, lives, and personal integrity of the individuals deprived of liberty. The State also must guarantee improved access to justice in order to address the pretrial detention situation in the country.

583. Regarding the rights of **migrants and those seeking asylum and refugee** status, the Commission has monitored the situation of the Venezuelan migrants located in Trinidad and Tobago. According to publicly-available information, during 2019, approximately 1,500 Venezuelans per week reached the country's coasts by boat,⁸³⁶ with some of them intercepted at sea by the Coast Guard.⁸³⁷ According to estimates by the UNHCR, as of October 31, 13,990 Venezuelans had requested refugee status in Trinidad and Tobago.⁸³⁸ However, according to public reports, the State has not taken any significant measures to integrate them or provide them with a legal status that would allow them to exercise their rights to equal protection on the same footing as nationals—for example, access to social services, and access to public school for children.⁸³⁹

584. Additionally, the IACHR took note of the "Venezuelan migrant registration" program that the government undertook for two weeks in May and June 2019 with the aim of providing amnesty and documented migratory status to Venezuelans. They were granted a registration card valid for one year that authorized them to work formally. However, those who have not registered are counted as undocumented, and for those who have registered, their registration expires in one year.⁸⁴⁰ According to information provided to the media by the government, 16,523 Venezuelans were registered.⁸⁴¹ The Commission conducted a public hearing on violations of the human rights of Venezuelan migrants in Trinidad and Tobago in connection with its 172nd Period of Sessions.⁸⁴²

585. The Commission laments the demonstrations that took place in Port of Spain in June 2019 calling for the closure of the country's borders and to oppose the residency permits granted to the Venezuelans entering the country illegally.⁸⁴³ The IACHR also took note of the implementation of the requirement of a visa

⁸³⁵ IACHR, Public Hearing on "[Due process and judicial independence in Trinidad and Tobago](#)", September 23, 2019.

⁸³⁶ *Vice News*, [Trinidad and Tobago is ignoring its Venezuelan refugee problem](#), March 1, 2019.

⁸³⁷ *Infobae*, [Dos embarcaciones venezolanas cargadas con cobre se hundieron en Trinidad y Tobago](#), August 19, 2019.

⁸³⁸ UNHCR, R4V, [Solicitudes de la condición de refugiado por país](#), November 5, 2019.

⁸³⁹ *Vice News*, [Trinidad and Tobago is ignoring its Venezuelan refugee problem](#), March 1, 2019.

⁸⁴⁰ Government of the Republic of Trinidad and Tobago, [Venezuelan migrant registration kicks off](#), May 31, 2019.

⁸⁴¹ Trinidad & Tobago Guardian, [PM blasts BBC 'agenda' in migrant report](#), September 17, 2019.

⁸⁴² IACHR, Public Hearing on [Reports of violations of the human rights of Venezuelan migrants in Trinidad and Tobago](#)", May 8, 2019.

⁸⁴³ Global Voices, [Con proceso de registro concluido en Trinidad y Tobago, venezolanos deberán contar con visa](#), June 15, 2019.

for Venezuelans who wish to travel to Trinidad and Tobago. The visa is processed in the Trinidad and Tobago embassy located in Caracas and can be requested over the Internet.⁸⁴⁴

586. Also, during a public hearing held in the framework of its 172nd Period of Sessions, the Commission was informed of obstacles to accessing health and education faced by migrants who enter Trinidad and Tobago illegally—especially migrants of Venezuelan origin—as well as the poor detention conditions to which they are subjected and the violation of their right to have free contact with lawyers who assist them. Additionally, the IACHR received information on cases of labor trafficking of migrants, including women and children, as well as the multiple acts of physical and sexual abuse of which they are victims.⁸⁴⁵

587. As regards **human trafficking**, the Commission welcomes the measures adopted by Trinidad and Tobago to combat human trafficking. They include: the establishment of a new intelligence working group to improve investigations, the training of public officials, and the establishment of a "Memorandum of Understanding" between the Counter Trafficking Unit and the Children's Authority to provide better protection to children who are victims of trafficking.⁸⁴⁶ Additionally, in October, officials from Trinidad and Tobago rescued 69 victims and survivors of the offense of human trafficking and arrested six individuals links to the commission of this crime.⁸⁴⁷

588. The Commission also highlights that it made a working visit to Trinidad and Tobago in the framework of its 2017-2021 Strategic Plan and its program of action with the Caribbean. The objective of the visit was to promote the Commission's mandates, raise awareness of the inter-American system's mechanisms for protecting and promoting human rights, and enhance dialogue with key actors working in the area of human rights in the country.⁸⁴⁸

589. Regarding **older persons**, the IACHR observes that according to CEPAL, Trinidad and Tobago is one of the countries that will be aging the most.⁸⁴⁹ The Ministry of Social Development has reported that abuse against older persons is on the rise,⁸⁵⁰ including physical and emotional trauma, financial manipulation, and abandonment.⁸⁵¹ Additionally, it pointed to the need to create programs for providing care, with adequate training for caretakers of older persons. In this area, it was reported that 16% of complaints were reports of loneliness despite not living alone.⁸⁵² One study confirmed the impact of aging on medical and social support services and highlighted the need to raise awareness among the country's social and healthcare workers.⁸⁵³

590. During the first nine months of the year, 32 older adults were reported murdered, bringing the total to 52 over the last two years. Six individuals were arrested and charged with the murders in 2019, one of them a relative of a victim.⁸⁵⁴ It was also reported that this year, older adults were the victims of assaults,

⁸⁴⁴ Government of the Republic of Trinidad and Tobago, [Processing of visa applications continue at the Trinidad and Tobago embassy in Caracas](#), October 4, 2019.

⁸⁴⁵ IACHR, Public hearing on "[The human rights of Venezuelan migrants in Trinidad and Tobago](#)," May 8, 2019.

⁸⁴⁶ Government of the Republic of Trinidad and Tobago, [Trinidad and Tobago maintains tier two ranking in its continued response to human trafficking](#), June 21, 2019.

⁸⁴⁷ Government of Saint Lucia, [Saint Lucia called on to remain vigilant of human trafficking](#), October 10, 2019.

⁸⁴⁸ IACHR, Press Release No. 39/19, [IACHR visits Barbados, Bahamas, Trinidad and Tobago and Jamaica](#), February 22, 2019.

⁸⁴⁹ The proportion of older persons will be greater than 20%. *La Estrella de Panamá*, [Tasa de vejez aumentará 59% para el año 2030: Cepal](#), January 10, 2019.

⁸⁵⁰ According to data from the Older Persons Information Centre of the Division of Aging of the Ministry of Social Development. *Newsday*, [Division of Ageing reports rise in elder abuse](#), June 25, 2019.

⁸⁵¹ According to the Victim and Witness Support Unit. *Newsday*, [Division of Ageing reports rise in elder abuse](#), June 25, 2019.

⁸⁵² *Newsday*, [Division of Ageing reports rise in elder abuse](#), June 25, 2019.

⁸⁵³ Ian Sammy, Joanne F. Paul, Arvind Ramnarine and Joseph Ramdhanie, "[The global challenge of ageing population - Part II: the impact on health services, and the optimum healthcare strategy for older patients](#)," June 30, 2019.

⁸⁵⁴ *Trinidad & Tobago Guardian*, [32 elderly citizens killed in last 9 months](#), December 4, 2019.

beatings, threats and violation of protective orders, murder, and rape and other sex crimes, as well as fraud and theft. It was also reported that 229 older persons disappeared between 2016 and 2019, only 53 of which were found.⁸⁵⁵ It was additionally reported that between January 2018 and September 2019, more than 75 older persons disappeared or were killed, with 90% of these crimes committed by individuals known by the victims.⁸⁵⁶

URUGUAY

- **General considerations**

591. The State of Uruguay continues to be one of the most robust in terms of protecting and guaranteeing human rights in the region. During 2019, the Commission continued to note in Uruguay a series of examples of **progress** on protecting the rights of stateless persons and children and adolescents, as well as the rights secured by LGBTI persons.

592. As regards **challenges**, the IACHR noted that despite some minor progress in the area, the judicial system still faces difficulties in moving forward on investigations into and reparations for the crimes committed by State agents during the civic-military dictatorship.

593. The State did not respond to the request for information sent to prepare this chapter.

- **Specific issues**

594. Regarding **human rights institutions**, Uruguay has a National Human Rights Institution and Office of the Ombudsperson (INDDH)⁸⁵⁷ committed to defending, promoting, and protecting all human rights recognized under the Constitution and international law. The Commission has taken note of the appointment of the new head of the INDDH for the September 2019-2020 period. It should also be noted that the INDDH launched a new mobile office with the aim of improving the accessibility of its services.

595. The IACHR also appreciates that Uruguay has a National Human Rights Education Plan,⁸⁵⁸ the objective of which is to build a culture of human rights and establish and strengthen an institutional framework for human rights education.

596. As regards the **rights of children and adolescents**, the Commission takes note of an increase in cases of violence against and abuse of children. According to public reports, in Uruguay, 11 cases of violence against children and adolescents take place per day, along with at least two cases of sexual violence, with 93% of the assailants being relatives or members of the nuclear home.⁸⁵⁹ Additionally, civil society organizations have alleged publicly that the financial and human resources allocated are insufficient for combating child abuse.⁸⁶⁰

597. Nevertheless, during the working visit it made to the country in May 2019, the IACHR was informed of the public policies implemented by the State to address this issue, including the preparation of a protocol for handling situations of sexual violence against children and adolescents; legislative reforms to

⁸⁵⁵ *Trinidad & Tobago Guardian*, [32 elderly citizens killed in last 9 months](#), December 4, 2019.

⁸⁵⁶ According to the International Women's Resource Network. *Trinidad & Tobago Guardian*, [32 elderly citizens killed in last 9 months](#), December 4, 2019.

⁸⁵⁷ *National Human Rights Institution and Office of the Ombudsperson*, December 7, 2020.

⁸⁵⁸ [National Human Rights Education Plan](#).

⁸⁵⁹ *Ecos Uruguay*, [En Uruguay se atienden 11 casos por día de violencia severa a menores](#), April 25, 2019.

⁸⁶⁰ *El País*, [Denuncian falta de recursos contra el maltrato infantil](#), August 5, 2019.

prevent their revictimization during judicial proceedings; and initiatives to empower girls and adolescent girls with the aim of preventing violence.⁸⁶¹

598. Additionally, the Commission welcomes the initiatives promoted by the State to encourage the participation of children and adolescents.⁸⁶² It particularly welcomes the participation of 60 children and adolescents in a variety of programs of the Institute of the Child and Adolescent in Uruguay (INAU), including workshops and conferences to analyze and discuss issues of interest to them, as well as recreational and artistic activities including the painting of anti-violence murals as a form of expression.⁸⁶³

599. As regards the **rights of stateless persons**, the Commission issued a press release welcoming the entry into force of Law 19,682, on the Recognition and Protection of Stateless Persons. The IACHR underscores its importance as the second law in the region to specifically address stateless persons and to establish a process for determining their status, to last a maximum of 270 days.⁸⁶⁴

600. In the year so far with regard to the **rights of LGBTI persons**, the Commission noted with concern that the Electoral Court of Uruguay approved a pre-referendum to roll back the Comprehensive Trans Persons Act.⁸⁶⁵ Regarding this, the Commission has remarked on the tremendous democratic value of referendums and plebiscites. However, it reiterates that gender identity is an essential element of juridical personality and individual identity, and therefore, it cannot be dependent on the popular will.⁸⁶⁶ The IACHR also takes note of the results of this referendum, which upheld the aforementioned law,⁸⁶⁷ which represents progress toward recognition of the rights of trans persons and persons of diverse gender identity because it provides for expeditious, transparent, and affordable legal recognition of all such persons, guaranteeing their human rights and respecting their own perception of themselves, without imposing pathologizing or stigmatizing requirements, including for children and adolescents under the age of 18.⁸⁶⁸

601. As regards **memory, truth, and justice**, the IACHR has urged the State to investigate the death threats issued against authorities, justice officials, and human rights defenders acting in the context of court proceedings on the grave human rights violations that took place during the dictatorship in Uruguay.⁸⁶⁹ The IACHR takes note that, in 2019, the Specialized Office on Crimes against Humanity requested the prosecution of 12 individuals for crimes committed during that period.⁸⁷⁰ Additionally, in the hearing held during its 174th Period of Sessions, the Commission was informed that, of the 187 court cases opened into crimes committed

⁸⁶¹ IACHR, Press Release No. 135/19, [IACHR Completes Visit to Uruguay](#) May 31, 2019.

⁸⁶² Parliament of Uruguay, [Young people of the INAU's Consultative Advisory Council give voice to children and adolescents from throughout the country](#), May 8, 2019.

⁸⁶³ Oriental Republic of Uruguay, Office of the President, [More than 60 children and adolescents participating in INAU programs paint anti-violence murals at Colón terminal](#), March 22, 2019.

⁸⁶⁴ IACHR, Press Release No. 042/19, [IACHR Welcomes Actions to Protect the Right to a Nationality and to Prevent Statelessness in the Region](#), February 25, 2019.

⁸⁶⁵ Electoral Court of the Oriental Republic of Uruguay, [Press Release: Comprehensive Trans Persons Act](#), May 28, 2019.

⁸⁶⁶ IACHR, [IACHR Completes Visit to Uruguay](#), May 31, 2019.

⁸⁶⁷ *El País*, [Iniciativa contra la ley trans fracasó, de acuerdo a primeras cifras](#), August 4, 2019.

⁸⁶⁸ CIDH, Comunicado de Prensa No. 275/18, [CIDH saluda los avances hacia el reconocimiento de la identidad de género en la Región](#), 21 de diciembre de 2018.

⁸⁶⁹ IACHR, ["Press Release 45/19 - IACHR Concerned about Failure to Investigate Threats against Justice Operators Active in Cases of Serious Human Rights Violations during Uruguayan Dictatorship"](#), February 27, 2019; IACHR, [Press Release 135/19 -IACHR concludes visit to Uruguay](#), May 31, 2019.

⁸⁷⁰ Office of the Attorney General of the Nation, [Office of the Specialized Prosecutor on Crimes against Humanity requests the prosecution of five former soldiers for two crimes committed during the dictatorship](#), February 2019; Office of the Attorney General of the Nation, [Office of the Specialized Prosecutor on Crimes against Humanity requests the imprisonment and prosecution of three former soldiers and one former police officer in a complaint filed by a group of former political prisoners](#), February 2019; Office of the Attorney General of the Nation, [Office of the Specialized Prosecutor on Crimes against Humanity requests the prosecution of three soldiers for crimes committed during the dictatorship](#), March 2019;

during the civic-military dictatorship, prosecution has still not been requested in 91% of them.⁸⁷¹ The IACHR has also expressed concern at the persistence of judicial interpretations declining to exempt from prescription the grave human rights violations perpetrated during the period of the Uruguayan dictatorship.⁸⁷² Regarding this, the Commission took note of the decision of the Supreme Court of Justice limiting the application of prescription in a case from this context. However, it also underscored the importance of the State eliminating the obstacles to investigating and prosecuting cases of this nature.⁸⁷³ Despite the above, the IACHR stresses that impunity for crimes committed by the dictatorship in Uruguay continues to constitute a matter of major concern with regard to memory, truth, and justice.

602. Regarding the right to **freedom of expression**, the IACHR and the Office of the Special Rapporteur observed that, during presidential and parliamentary elections in Uruguay, complaints were filed alleging the dissemination of deliberate disinformation campaigns. Along these lines, around 70 media outlets, institutions, and civil society organizations launched an information verification program, called Verificado.uy, which played an important role in verifying information.

603. Likewise, several complaints have been filed on obstacles to accessing information through different methods, including refusals to respond to requests for information and the blocking of procedures to access vital information for academic research on water and environmental policies. It should be highlighted that along these lines, the Office of the Special Rapporteur has noted the adoption of a decree approving the Open Government Action Plan, proposing amendments to Law 18,381 on the Right to Access to Public Information to combat the exercise of that right.

604. The Office of the Special Rapporteur also highlights the progress made on the exercise of freedom of expression, including, for example, the resolution ordering the archiving of the criminal complaint for defamation brought by the Commander and Chief of the Army, General Claudio Feola, on May 11 against radio journalist Sarandí Gabriel Pereyra in response to his opinion on the general statements regarding those detained and disappeared during the military dictatorship. Lastly, in November, the Fourth Criminal Appeals Tribunal ruled in favor of Montevideo Portal, Radio Uruguay, and *La República* in rejecting a right to reply requested by a security advisor of the party Cabildo Abierto, Antonio Romanelli. He was seeking the right to reply in response to a letter they published signed by 41 former political prisoners describing the treatment they suffered while he was a guard at the Libertad prison between 1978 and 1979.

⁸⁷¹ IACHR, [Challenges in the search for truth and justice in Uruguay](#), 174th Period of Sessions, November 11, 2019.

⁸⁷² IACHR, [IACHR concludes visit to Uruguay](#), May 31, 2019.

⁸⁷³ IACHR, [IACHR Notes Uruguay Court Decision Limiting the Application of Statute of Limitations to Crime Committed during the Dictatorship](#), June 24, 2019.