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ANNUAL REPORT OF THE OFFICE OF THE SPECIAL RAPPORTEUR
FOR FREEDOM OF EXPRESSION

Pedro Vaca Villarreal
Special Rapporteur for Freedom of Expression

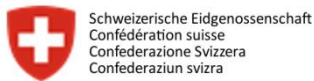


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ANNUAL REPORT OF THE OFFICE OF THE SPECIAL RAPPORTEUR FOR FREEDOM OF EXPRESSION

2020

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TABLE OF ACRONYMS AND REFERENCES

ACHPR:	African Commission on Human and Peoples' Rights
American Convention:	American Convention on Human Rights
American Declaration:	American Declaration of the Rights and Duties of Man
Declaration of Principles:	Declaration of Principles on Freedom of Expression
European Convention:	European Convention on Human Rights and Fundamental Freedoms
European Court:	European Court of Human Rights
IACHR:	Inter-American Commission on Human Rights
ICCPR:	International Covenant on Civil and Political Rights
ILO:	International Labor Organization
Inter-American Court:	Inter-American Court of Human Rights
OAS:	Organization of American States
OSCE:	Organization for Security and Cooperation in Europe
Office of the Special Rapporteur:	Office of the Special Rapporteur for Freedom of Expression
UN:	United Nations
UNESCO:	United Nations Educational, Scientific and Cultural Organization

CHAPTER I: GENERAL INFORMATION

A. Creation of the Office of the Special Rapporteur for Freedom of Expression and Institutional Support

1. The Inter-American Commission on Human Rights, by the unanimous decision of its members, created the Office of the Special Rapporteur for Freedom of Expression during its 97th period of sessions, held in October 1997. This office was created by the Commission as a permanent, independent office that acts within the framework and with the support of the IACHR. Through the Office of the Special Rapporteur, the Commission sought to encourage the defense of the right to freedom of thought and expression in the hemisphere, given the fundamental role this right plays in consolidating and developing the democratic system and in protecting, guaranteeing, and promoting other human rights. During its 98th period of sessions, held in March 1998, the IACHR defined in general terms the characteristics and functions of the Office of the Special Rapporteur and decided to create a voluntary fund to provide it with economic assistance.

2. The Commission's initiative to create a permanent Office of the Special Rapporteur for Freedom of Expression found full support among the OAS Member States. Indeed, during the Second Summit of the Americas, the hemisphere's Heads of State and Government recognized the fundamental role of freedom of thought and expression, and noted their satisfaction over the creation of the Office of the Special Rapporteur. Since then, both the Summit of the Americas and the OAS General Assembly have shown their support to the Office of the Special Rapporteur, and have entrusted it with follow-up or analysis of some of the rights that comprise freedom of expression, as well as the monitoring and promotion of the right to access public information.¹ During the last years, the OAS General Assembly has expanded its objectives' agenda to the Office of the Special Rapporteur pursuant to the situation of the right to freedom of expression in the region.

3. In the framework of the VIII Summit of the Americas, held on April 13 and 14, 2018 in Lima, Peru, the "Democratic Governance against Corruption" commitment was adopted, through which the representatives of participating States expressed their commitment to keep on strengthening different anti-corruption measures, such as the strengthening of the transparency and access to public information bodies, the protection to plaintiffs and journalists regarding threats and reprisal for investigating or informing on corruption acts.²

4. In 2018, the IACHR adopted resolution 1/18 on "Corruption and Human Rights," through which it recommends the States to adopt a series of measures strengthening the access to public information as a key factor in the fight regarding corruption, protection to journalists and the media, among others.³

5. The General Assembly of the OAS, by means of resolution 2928 (XLVIII-O/18) on "Human Rights Promotion and Protection," requested the Office of the Special Rapporteur, together with other bodies, to prepare "practical guidelines in the form of recommendations for guaranteeing freedom of expression and

¹ With regard to freedom of expression, the General Assembly of the OAS has adopted resolutions in different years through which it re-stated the right to freedom of expression and acknowledged the important contributions of the Office of the Special Rapporteur for Freedom of Expression; Moreover, it urged the States to follow the Special Rapporteur's recommendations indicated in the annual reports. In 2005, it passed resolution 2149 (XXXV-O/05); In 2006, resolution 2237 (XXXVI-O/06); In 2007, resolution 2287 (XXXVII-O/07); In 2008, resolution 2434 (XXXVIII-O/08); resolution 2523 (XXXIX-O/09); In 2011, resolution 2679 (XLI-O/11).

On the subject of access to public information, the General Assembly has also made several statements supporting the work of the Office of the Special Rapporteur and urging the adoption of its recommendations. In 2003, it passed resolution 1932 (XXXIII-O/03); In 2004, resolution 2057 (XXXIV-O/04); In 2006, resolution 2252 (XXVI-O/06); In 2007, resolution 2288 (XXXVII-O/07); In 2008, resolution 2418 (XXXVIII-O/08); In 2009, resolution 2514 (XXXIX-O/09). In that same resolution, the General Assembly entrusted the Department of International Law, with the collaboration of the Office of the Special Rapporteur, the Inter-American Juridical Committee and the Department of State Modernization and Governance, as well as the cooperation of Member States and civil society, with drafting a Model Law on Access to Public Information and a guide for its implementation, in keeping with the Inter-American standards on the issue. In addition, in 2011, it approved resolution 2661 (XLI-O/11); In 2012, resolution AG/RES. 2727 (XLII-O/12); In 2013, resolution AG/RES 2811 (XLIII-O/13); In 2014, resolution AG/RES. 2842 (XLIV-O/14); In 2016, resolution AG/RES was approved. 2885 (XLVI-O/16). In this resolution, the General Assembly of the OAS instructs the Office of the Special Rapporteur for Freedom of Expression to develop and disseminate the content of the inter-American legal framework on access to information, including the inter-American Model Law on Access to Public Information, through the preparation of reports on the scope of the law and the application of its principles. Additionally, it also instructed the Office of the Special Rapporteur to assist Member States and to organize and participate in capacity building programs for public officials of national authorities on access to information and justice operators.

² Summit of the Americas. Lima Commitment. "Democratic Governance against Corruption". April 14, 2018.

³ IACHR. Resolution 1/18. [Corruption and Human Rights](#). March 16, 2018.

access to information from a variety of the Internet sources during electoral processes without improper interference."⁴ In 2017, the OAS General Assembly adopted resolution AG/RES. 2908 (XLVII-O / 17) regarding the right to freedom of thought and expression and the safety of journalists and media workers in the hemisphere. The proposal was presented by the delegation of Uruguay and co-sponsored by the delegations of Argentina, Bolivia, Chile, Costa Rica, Mexico, Peru, and the Dominican Republic. The Office of the Special Rapporteur joins the commitment that the States make in this resolution to implement strategies and resources that end with the prevailing impunity in crimes against journalists.

6. Since its creation, the Office of the Special Rapporteur has also had the support of civil society organizations, the media, journalists and, most importantly, individuals who have been victims of violations of the right to freedom of thought and expression, along with their family members.

7. In the framework of its 163rd Period of Sessions, the IACHR renewed the mandate of Special Rapporteur Edison Lanza for a new period of three years, in accordance with Article 15 of its Rules of Procedure.⁵

8. In the framework of the 173rd Period of Sessions in Washington D.C., the IACHR approved the document Directive on the performance of the IACHR's Special Rapporteurships concerning the activities and roles held in their mandates. For the first time the Special Rapporteurships have a protocolized framework for action.

9. On September 15, 2020, the IACHR announced the designation of Pedro José Vaca Villarreal as Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights, taking possession of the position on October 6, 2020, in accordance with Article 15 of its Rules of Procedure.⁶ The selection was the result of a broad, open, transparent and participatory process. The call was published on January 13, 2020 and closed on March 13, 2020. Of the 81 applications received, the Commission selected ten finalists at its Internal Session on April 29, 2020. This list was compiled taking into account the criteria established in the call, as well as gender parity and representation from the different regions of the Américas.⁷

B. Main activities of the Office of the Special Rapporteur

10. During its twenty-three years of existence, the Office of the Special Rapporteur has carried out each of the tasks assigned to it by the IACHR and by other OAS bodies such as the General Assembly in a timely and dedicated manner.

11. This section of the report summarizes very generally the tasks that have been accomplished, with particular emphasis on the activities carried out in 2020:

1) Individual Case System

12. One of the most important functions of the Office of the Special Rapporteur is to advise the IACHR in the evaluation of individual petitions and prepare the corresponding reports.

13. The appropriate advancement of individual petitions not only provides justice in the specific case, but also helps call attention to paradigmatic situations that affect freedom of thought and expression, and creates important case law that can be applied in the inter-American human rights system itself as well as in courts in countries throughout the region. The individual case system also constitutes an essential factor within the broad strategy of promoting and defending the right to freedom of thought and expression in the region, a strategy that the Office of the Special Rapporteur carries out through various mechanisms offered by the inter-American human rights system.

14. Likewise, since its creation, the Office of the Special Rapporteur has advised the IACHR in the presentation of important cases involving freedom of expression to the Inter-American Court of Human Rights (hereinafter, the "Court" or the "Inter-American Court").⁸

⁴ OEA. Resolution AG/RES. 2928 (XLVIII-O/18). [Human Rights Promotion and Protection](#)

⁵ IACHR. Periods of Sessions. Available at <http://www.oas.org/es/cidh/actividades/sesiones.asp>

⁶ IACHR. Press Releases: [IACHR Chooses Pedro José Vaca Villarreal As Special Rapporteur for Freedom of Expression](#).

⁷ IACHR. Press Releases: <http://www.oas.org/es/cidh/prensa/comunicados/2020/218.asp>

⁸ Case of "The Last Temptation of Christ" (Olmedo-Bustos et al.) v. Chile. Judgment of February 5, 2001; Case of Ivcher Bronstein v. Peru. Judgment of February 6, 2001; Case of Herrera Ulloa v. Costa Rica. Judgment of July 2, 2004; Case of Ricardo Canese v. Paraguay.

15. The cases solved by the IAHR Court in 2020 are as follows:

- A. — *Urrutia Laubreaux v. Chile. Judgment of August 30, 2019.* The Inter-American Court of Human Rights issued a Judgment by which it declared the international responsibility of the State of Chile for the violation of the rights to freedom of thought and expression, to judicial guarantees, and to the principle of legality, in relation to the obligation to respect and guarantee such rights and the duty to adopt domestic law provisions, to the detriment of Judge Daniel Urrutia Laubreaux. In 2004, Judge Urrutia presented an academic paper for the "Diploma in Human Rights and Democratization Processes" course, which he attended with the authorization of the Supreme Court of Justice. The paper referred to the general lack of a human rights approach in the Chilean judiciary and the role played, especially by the Supreme Court, during the country's military regime and concluded that the Chilean judiciary should grant reparations for the responsibility that the institution would have had in the human rights violations during the dictatorship. On March 31, 2005, the Court of Appeals of La Serena decided to sanction the judge with a disciplinary measure of "written censure", in application of numbers 1 and 4 of article 323 of the Organic Code of Courts. This was because it considered that the academic work was "a manifestation of excessive expression by a judge of the Republic to refer to the actions of his hierarchical superiors", and that it also violated the principle of hierarchy that informs the Chilean Judiciary. Mr. Urrutia Laubreaux appealed the decision before the Supreme Court and on May 6, 2005, the Supreme Court upheld the challenged decision, reduced the sentence to a "private reprimand" and ordered that the sanction imposed be recorded in the judge's résumé. The registration of the private reprimand in the judge's résumé had the consequence that the sanctioned judge could not be rated in the "outstanding" list, received a lower rating or accumulation of points, which influenced the preference in the appointments in property, in the promotion of judges to higher positions and in the appointment to different positions. In addition, more than three sanctions in a three-year period could result in removal from the judge's position. In the specific case, on the occasion of the application of the "private reprimand", they knew the victim as a "problematic judge". In 2018, after the sanction of "private reprimand" remained on Mr. Urrutia Laubreaux's résumé for more than 13 years, the Supreme Court decided to render it ineffective and remove it from his résumé. The Inter-American Court ratified that judges, like all persons, enjoy the right to freedom of expression. However, it emphasized that, due to their functions in the administration of justice, and the protection of independence and impartiality in the exercise of justice, this right could be subject to special restrictions. The Court emphasized that these restrictions must be provided for by law, respond to an objective permitted by the American Convention, and be necessary and proportional. It also emphasized that the restrictions applied must be analyzed in each specific case, taking into account the content of the expression and the circumstances of the expression, in order to determine whether they were applied in a manner compatible with the American Convention. Thus, for the Inter-American Court, although there is a possibility of greater restriction on the freedom of expression of judges, not necessarily any expression of a judge could be restricted. Hence, judges may have, for example, a greater margin for the exercise of their freedom of expression in some areas - such as academia - and less in others - such as in the media. In the case, the Court decided that "it is not in accordance with the American Convention to sanction expressions made in an academic work on a general topic and not a specific case, such as the one made by the alleged victim". The Inter-American Court concluded that, although the decision of the Supreme Court of Chile in 2018 constituted an adequate and timely control of conventionality of the sanction of private reprimand imposed on Mr. Urrutia Laubreaux in 2005, because it recognized, ceased and partially repaired the

Judgment of August 31, 2004; Case of Palamara Iribarne v. Chile. Judgment of November 22, 2005; Case of Claude Reyes et al. v. Chile. Judgment of September 19, 2006; Case of Kimel v. Argentina. Judgment of May 2, 2008; Case of Tristán Donoso v. Panama. Judgment of January 27, 2009; Case of Ríos et al. v. Venezuela. Judgment of January 28, 2009; Case of Perozo et al. v. Venezuela. Judgment of January 28, 2009; Case of Usón Ramírez v. Venezuela. Judgment of November 20, 2009; Case of Manuel Cepeda Vargas v. Colombia. Judgment of May 26, 2010; Case of Gomes Lund et al. v. Brazil. Judgment of November 24, 2010; Case of Fontevecchia and D'Amico v. Argentina. Judgment of November 29, 2011; Case of González Medina and Family v. Dominican Republic. Judgment of February 27, 2012; Case of Vélez Restrepo and Family v. Colombia. Judgment of September 3, 2012; Case of Uzcátegui et al. v. Venezuela. Judgment of September 3, 2012; Case of Norín Catrimán et al. (leaders, members and activists of the Mapuche Indigenous People) v. Chile. Judgment of May 29, 2014; Case of Granier et al. (Radio Caracas Televisión) v. Venezuela. Judgment of June 22, 2015; Case of López Lone et al. v. Honduras. Judgment of October 5, 2015; Case of I.V. v. Bolivia. Judgment of November 30, 2016; Case of Lagos del Campo v. Peru. Judgment of August 31, 2017.

violation of the right to freedom of expression to the detriment of Mr. Urrutia, the sanction remained on Mr. Urrutia Laubreaux's resume for more than 13 years, which reasonably affected his judicial career.

2) *Precautary Measures*

16. The Office of the Special Rapporteur has worked, within its mandate, with the IACHR Protection Group with regard to recommendations on the adoption of precautionary measures in the area of freedom of expression. In this regard, the IACHR has requested on multiple occasions that OAS Member States adopt precautionary measures to protect the right to freedom of expression.

17. During 2020, the Office of the Special Rapporteur collaborated in the study of 27 requests for precautionary measures, five of which were granted by the IACHR. Three of them correspond to protection granted to independent journalists in Nicaragua in the context of repression and restriction of press freedom that the country has been experiencing since the protests of April 2018: MC 1606-18 (Nicaragua) - extension of the measures granted to Maria Waleska Almendares, for threats and harassment of journalists and workers of Confidential media; MC 399-19 (Nicaragua) - extension of precautionary measures for threats and harassment to journalist Carlos Edy Monterrey, editorialist of La Costeñísima radio station, MC 399-20 (Nicaragua), granted to Notimat journalist Eduardo Montenegro. On the other hand, MC 1205-19 (Venezuela) was granted in relation to threats and harassment of relatives of Armando Info journalist Roberto Deniz and finally MC 1043-20 (Cuba) was granted to Niober García Fournier.

18. The granting of the precautionary measures does not constitute a prejudgment on the merits in question. Rather, these measures are adopted out of a need to avert grave, imminent, and irremediable harm to one of the rights protected in the American Convention of Human Rights, or to maintain jurisdiction in the case and so the subject of the action does not disappear.

3) *Public Hearings*

19. The IACHR received various requests for hearings and working meetings on matters involving freedom of expression during its most recent periods of sessions. The Office of the Special Rapporteur participates actively in the hearings on freedom of expression, preparing the reports and handling the corresponding interventions and follow-up.

20. Below is a summary of the hearings in which the Office of the Special Rapporteur participated during 2020:

State / Region	Period of Sessions	Title of the hearing	Date/ Place
Nicaragua	175 ^o Period of Sessions of the Inter-American Commission on Human Rights	Human rights situation in Nicaragua	March 5, 2020, Port-au-Prince Haiti
Costa Rica	175 ^o Period of Sessions of the Inter-American Commission on Human Rights	Judicial Independence in Costa Rica	March 5, 2020, Port-au-Prince Haiti

Venezuela	175 ^o Period of Sessions of the Inter-American Commission on Human Rights	Violations of the right to education, academic freedom and university autonomy in Venezuela	March 5, 2020, Port-au-Prince Haiti
Brasil	175 ^o Period of Sessions of the Inter-American Commission on Human Rights	SRFOE Hearing: Complaint of restriction to freedom of expression in Brazil.	March 6, 2020, Port-au-Prince Haiti
Cuba	175 ^o Period of Sessions of the Inter-American Commission on Human Rights	Human rights situation of women, youth and activists in Cuba.	March 6, 2020, Port-au-Prince Haiti
Bolivia	175 ^o Period of Sessions of the Inter-American Commission on Human Rights	Human Rights Situation in Bolivia	March 6, 2020, Port-au-Prince Haiti
Nicaragua	177 ^o Period of Sessions of the Inter-American Commission on Human Rights	Repression, persecution and imprisonment of student leaders in Nicaragua	October 1, 2020 Virtual
Colombia	177 ^o Period of Sessions of the Inter-American Commission on Human Rights	SRFOE Hearing: Illegal Interception Practices in Colombia	October 5, 2020 Virtual
Brazil	177 ^o Period of Sessions of the Inter-American Commission on Human Rights	SRFOE Hearing: Freedom of Expression in Brazil	October 6, 2020 Virtual
Ecuador	177 ^o Period of Sessions of the Inter-American Commission on Human Rights	Human and collective rights violations against indigenous peoples in Ecuador	October 6, 2020 Virtual
United States	177 ^o Period of Sessions of the Inter-American Commission on Human Rights	RELE Hearing: Freedom of expression and the practice of journalism in the protests in the U.S.	October 6, 2020 Virtual

Venezuela	177 ^o Period of Sessions of the Inter-American Commission on Human Rights	Guarantees of political rights in the electoral process in Venezuela	October 7, 2020 Virtual
Venezuela	177 ^o Period of Sessions of the Inter-American Commission on Human Rights	Corruption in the Venezuelan public health system in the context of the Covid-19 pandemic	October 7, 2020 Virtual
Bolivia	177 ^o Period of Sessions of the Inter-American Commission on Human Rights	Situation of judicial independence and access to information during the Covid-19 pandemic in Bolivia	October 8, 2020 Virtual
Regional	178 ^o Period of Sessions of the Inter-American Commission on Human Rights	Hearing: Situation of impunity for sexual abuse of children and adolescents in religious institutions	December 3, 2020
El Salvador	178 ^o Period of Sessions of the Inter-American Commission on Human Rights	SRFOE Hearing: Situation of Freedom of Expression in El Salvador	December 3, 2020
Regional	178 ^o Period of Sessions of the Inter-American Commission on Human Rights	Hearing: Situation of the Prosecutor's Offices in the protection of human rights in the region	December 4, 2020
Mexico	178 ^o Period of Sessions of the Inter-American Commission on Human Rights	Situation of human rights institutions in Mexico, with a gender perspective	December 4, 2020
Mexico	178 ^o Period of Sessions of the Inter-American Commission on Human Rights	Hearing: Ernestina Ascencio Rosario case - Mexico	December 4, 2020

Regional	178 ^o Period of Sessions of the Inter-American Commission on Human Rights	Hearing: Situation of human rights of LGBTI people in the Caribbean	December 8, 2020
Colombia	178 ^o Period of Sessions of the Inter-American Commission on Human Rights	Hearing: Commission for the Clarification of Truth, Coexistence and Non-Repetition in Colombia: Balance and Challenges	December 8, 2020
Colombia	178 ^o Period of Sessions of the Inter-American Commission on Human Rights	Hearing: Situation of human rights in Colombia	December 8, 2020
Nicaragua	178 ^o Period of Sessions of the Inter-American Commission on Human Rights	Search Commissions in the region	December 10, 2020
Nicaragua	178 ^o Period of Sessions of the Inter-American Commission on Human Rights	Hearing: Situation of persons deprived of liberty for political reasons in Nicaragua	December 10, 2020

4) Seminars and workshops with strategic actors in the region

21. Seminars, workshops, and training are a critical tool the Office of the Special Rapporteur uses to promote the Inter-American system for the protection of human rights and the right to freedom of expression. In the last twenty-three (23) years, the Office of the Special Rapporteur has organized seminars throughout the region, in many cases with the cooperation of universities, government institutions, and nongovernmental organizations.

22. Hundreds of journalists, attorneys, members of the Public Prosecutor's Office, university professors, judges, and journalism, and law students among others, have attended the training sessions. These are offered by staff members of the Office of the Special Rapporteur both in country capitals and in more remote regions where there is often no access to information on the guarantees that can be sought to protect the right to freedom of thought and expression.

23. The meetings with those involved open the door for more people to be able to use the Inter-American human rights system to present their problems and complaints. The seminars also enable the Office of the Special Rapporteur to expand its network of contacts. In addition, the workshops and working meetings have allowed the Office of the Special Rapporteur to work closely with strategic actors to advance the application of international standards in domestic legal systems.

24. The following is a summary of the principal seminars and workshops held by the Office of the Special Rapporteur during 2020.

Date / Place	Event	Organizers	Summary
Tuesday, February 11, 2020 London, UK	Expert Meeting on "Misinformation, disinformation and human rights"	The Carter Center The Human Rights Big Data and Technology Project United Nations Human Rights Office of the High Commissioner	Special Rapporteur Edison Lanza was invited to participate as a panelist in the forum on disinformation and human rights within the panel Disinformation and Elections where he had the opportunity to share his knowledge, expertise and the content of the Guide on disinformation in electoral contexts developed by this office together with the legal department of the OAS.
February 26, 2020 Tegucigalpa Honduras	Conference: Honduras and the situation of freedom of expression	Committee for Free Expression Honduran Association of Journalists Partnership for Democracy and Human Rights	The Special Rapporteur Edison Lanza was invited to host the conference meeting: Honduras and freedom of expression, a view from the Office of the Special Rapporteur for freedom of Expression.
February 28, 2020 Tegucigalpa Honduras	Panel in Frente a Frente TV News Program	Frente a Frente TV News Program	Special Rapporteur Edison Lanza participated as a panelist on the Honduran television program Frente a Frente where he addressed the concerns and legal challenges faced by journalists and human rights defenders in exercising freedom of expression.
March 25, 2020	Academic collaborations	Espacio Público Organization – Venezuela	Special Rapporteur Edison Lanza wrote the prologue to the report on violations of freedom of expression in Venezuela, prepared by the organization Espacio Público entitled "The fight against censorship moves into the digital space".
April 7, 2020	Anniversary of the murder of El Comercio journalistic team on the Ecuador-Colombia border	Fundamedios	Special Rapporteur Edison Lanza participated as a panelist in the online event organized by Fundamedios and the relatives of the victims, in commemoration of the "Anniversary of the murder of the journalists from El Diario el Comercio".

<p>April 2, 2020</p>	<p>Academic collaborations</p>	<p>Knight Center for Journalists of the Americas (University of Austin-Texas)</p>	<p>Special Rapporteur Edison Lanza shared the inter-American standards and the main inputs of the Office's monitoring for the drafting of an article by the Knight Center for Journalists of the Americas on the importance of guaranteeing freedom of expression and the press in the context of the COVID19 pandemic.</p>
<p>April 20 to May 31, 2020</p>	<p>Sixth Edition of the Online Course on International Legal Framework on Freedom of Expression, Access to Public Information and Protection of Journalists".</p>	<p>IACHR RELE and Unesco Knight Center for Journalists of the Americas (University of Austin-Texas)</p>	<p>The Office of the Special Rapporteur for Freedom of Expression launched the sixth edition of the online course for judicial operators: International Legal Framework for Freedom of Expression, Access to Public Information and Protection of Journalists", organized by the RELE and UNESCO. The new edition had 2,348 registered judicial operators, which adds to the 10,000 that already participated in 5 previous editions. The course aims to train judicial officers in the Americas in the application of international standards on the right to freedom of expression, access to public information, protecting and combating impunity for crimes against journalists, and freedom of expression on the Internet. The Rapporteur Edison Lanza is one of the teachers of the course, along with a number of experts such as the former Special Rapporteur for freedom of expression Catalina Botero. This is a space for interaction and dialogue between the Inter-American Human Rights System and justice operators in Latin America to guarantee national justice in cases of freedom of expression.</p>

<p>April 28, 2020</p>	<p>Webinar Global Health Crisis Reporting Forum</p>	<p>ICFJ</p>	<p>Special Rapporteur Edison Lanza was invited to participate as a panelist with Silvia Chocarro, ARTICLE 19's Protection Director in the virtual forum organized by ICFJ named How can journalists and press freedom be protected during the COVID-19 pandemic? The event addressed issues such as the challenges faced by the press and journalists in covering the health crisis at a regional and global level, the risks this implies for their health, the direct or indirect restrictions they suffer in the exercise of their daily work and the restrictions on access to public information by the state.</p>
<p>May 4, 2020</p>	<p>Annual Report of the IACHR 2019 and the Situation of Human Rights in Venezuela</p>	<p>Presidential Commission for Human Rights and Attention to Victims - Venezuela</p>	<p>Special Rapporteur Edison Lanza was invited to participate as a panelist, along with IACHR Executive Secretary Paulo Abrao and Dr. Carlos Ayala, in a Virtual Forum organized by the Presidential Commission on Human Rights and Care of the Victims of the Interim Government of Venezuela. The event was organized with the aim of sharing knowledge and experiences about the "2019 Annual Report of the IACHR and its chapter on Freedom of Expression in the Hemisphere. Journalists, students, and legal professionals also participated in the activity.</p>

<p>May 7, 2020</p>	<p>Webinar: "Freedom of the Press and Access to Public Information in times of COVID-19"</p>	<p>Inter-American Court of Human Rights, Unesco Costa Rica and Konrad Adenauer Foundation</p>	<p>Special Rapporteur Edison Lanza participated as a speaker in the virtual event "Freedom of the Press and Access to Public Information in times of COVID-19" organized by Unesco and the Inter-American Court of Human Rights in commemoration of World Press Freedom Day. Together with judges of the Court and experts, topics related to the interpretation of the right to freedom of expression in the framework of the states of emergency decreed during the crisis by the COVID-19 were addressed, and the importance of the involvement of local, regional and international judicial actors in the protection of the press and the right of access to information was highlighted. The Rapporteur explained the scope of IACHR resolution 1/20 on Pandemic and Human Rights.</p>
<p>May 8, 2020</p>	<p>Online conference: "Talking about the State's duty to inform during the Covid-19 pandemic",</p>	<p>Institute of Access to Public Information (IAIP) of El Salvador.</p>	<p>Special Rapporteur Edison Lanza was invited to participate as a panelist in the virtual forum: "Talking about the State's duty to inform during the Covid-19 pandemic", organized by the Institute of Access to Public Information (IAIP) of El Salvador. In this presentation, the Rapporteur highlighted the importance of the right to freedom of expression as a guarantee to strengthen transparency during the pandemic and presented Resolution 1/20 of the IACHR on Pandemic and Human Rights. Experts on constitutional matters and members of civil society organizations also attended the event.</p>

<p>May 16, 2020</p>	<p>Talk for participants of the ITP Media Self-Regulation Program in Democratic Societies</p>	<p>ITP program of the Swedish cooperation for the training of journalists</p>	<p>Special Rapporteur Edison Lanza was invited to participate in the Swedish cooperation program for Central America and the Caribbean to discuss freedom of expression and access to information in the context of covid.19. At the event, the Rapporteur explained how the region is facing and living this problem, provided recommendations, recalled the inter-American standards on the matter and warned about latent threats.</p>
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<p>May 20, 2020</p>	<p>Online Event Covid-19 and Freedom of Expression in the Americas</p>	<p>RELE_CIDH, Global Affairs Canada and Inter-American Dialogue</p>	<p>The Office of the Special Rapporteur for Freedom of Expression, together with the Inter-American Dialogue and Global Affairs Canada, organized the online event Covid-19 and Freedom of Expression in the Americas.</p> <p>The event is part of the agenda promoted by the Media Conference that opened in London in 2019 and seeks to address issues of global concern in the hemisphere regarding limitations and restrictions on freedom of expression, the invocation of emergency powers to fight the pandemic and to persecute critical voices or limit transparency, online misinformation, censorship, arbitrary arrests, stigmatization of the media and restricted access to information.</p> <p>The event included interventions by the IACHR Special Rapporteur for Freedom of Expression Edison Lanza, the Permanent Representative of Canada to the OAS, Ambassador Hugh Adsett IFEX Deputy Executive Director Rachael Kay, Google's Senior Manager of Government Affairs and Public Policy for the Southern Cone, Eleonora Rabinovich and Frank La Rue, Director of Promotion and Human Rights at Fundamedios and former United Nations Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression. The Rapporteur explained the scope of IACHR Resolution 1/20 on Pandemic and Human Rights.</p>
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<p>May 22, 2020</p>	<p>Conversation with the students of the Sixth Edition of the Online Course (MOOC) on the International Legal Framework for Freedom of Expression, on Freedoms and Covid19</p>	<p>Knight Center for Journalism of the Americas</p>	<p>Special Rapporteur Edison Lanza held an online conversation with MOOC students to explain the standards on freedom of expression and access to information and the importance of their application in the context of the pandemic.</p>
<p>May 26, 2020</p>	<p>Online Event: panel discussion presentation of the annual report 2019 "Dissonance: voices in dispute</p>	<p>Article 19, Mexico</p>	<p>Consultant Cecilia La Hoz, senior lawyer of the Rapporteur's Office, was invited to participate as a speaker at the discussion table on the occasion of the presentation of the annual report 2019 of the Organization Article 19 Mexico "Dissonance: voices in dispute</p>
<p>May 30, 2020</p>	<p>Joint Declaration by the Rapporteurs for Freedom of Expression and Opinion and for Freedom of the Media (OAS; UN; and OSCE). 2020 edition.</p>	<p>The United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression; the Representative on Freedom of the Media of the Organization for Security and Cooperation in Europe (OSCE); and the Special Rapporteur on Freedom of Expression of the Organization of American States (OAS); Article 19 (London); Centre for Law and Democracy (Canada)</p>	<p>For the 21st. Joint Declaration of the Rapporteurs for Freedom of Expression, the rapporteurs of all protection systems elaborated and published the 2020 declaration on "freedom of expression and elections in the digital age"</p> <p>The Declaration is one of the main international interpretations of the right to freedom of expression and is supported by the non-governmental organizations Article 19 and the Centre for Law and Democracy - Canada. The launch event featured interventions of the Special Rapporteur Edison Lanza, the United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, David Kaye, and the Representative on Freedom of the Media of the Organization for Security and Cooperation in Europe (OSCE), Harlem Desir.</p>

<p>June 4, 2020</p>	<p>Launch of the Report of the Inter-American Commission on Human Rights on the Situation of Human Rights in Cuba</p>	<p>IACHR RELE IACHR REDESCA IACHR</p>	<p>The Inter-American Commission on Human Rights (IACHR) presented its country report "Situation of Human Rights in Cuba" which presents a general overview of the human rights situation in the State of Cuba during the period 2017-2019. The Special Rapporteur's Office for Freedom of Expression wrote the chapter of the report referring to the situation of freedom of expression of journalists, human rights defenders and dissidents. Together with the IACHR, the office organized the participation of prominent panelists in the field of defense of freedom of expression.</p> <p>During the online launch event, Special Rapporteur Edison Lanza moderated the Panel on Freedom of Expression in Cuba which included interventions from the following advocates and journalists:</p> <ul style="list-style-type: none"> •Camila Acosta, Cuban Journalist •Natalie Southwick, Central and South America Program Coordinator - Committee to Protect Journalists •Daniela Falk, Institute for War and Peace Reporting (IWPR) •Gina Romero, Executive Director, RedLac •Carlos Rodríguez, Cuban Journalist
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<p>June 8, 2020</p>	<p>Seminar on "Challenges and Perspectives for the Hemispheric Freedom of Expression Agenda"</p>	<p>IACHR</p>	<p>As part of the selection process for the new head of the Office of the Special Rapporteur for Freedom of Expression, the Inter-American Commission on Human Rights (IACHR) organized the online event: "Challenges and Prospects of the Hemispheric Agenda for Freedom of Expression".</p> <p>During the discussion, former Rapporteurs Santiago Cantón, Eduardo Bertoni, Ignacio Álvarez and Catalina Botero, together with the current Rapporteur, Edison Lanza, addressed the main standards promoted by the IACHR and the Special Rapporteur's Office during the last 20 years. They also discussed new issues on the agenda, as a way to contribute to the ongoing selection process.</p>
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<p>10 and 11 June 2020</p>	<p>Virtual Training Program: Journalism and Freedom of Expression in Nicaragua in the Context of the Pandemic</p>	<p>IACHR RELE</p>	<p>The IACHR's Office of the Special Rapporteur for Freedom of Expression, in collaboration with Race and Equality, conducted the virtual training: Journalism and Freedom of Expression in Nicaragua in the Context of the COVID19 Pandemic. The closed workshop was held especially for Nicaraguan journalists and included a space for conversation with the IACHR Special Rapporteurs, Edison Lanza (RELE) and Soledad García Muñoz (REDESCA).</p> <p>The two-day training addressed the challenges faced by Nicaraguan journalists in covering the pandemic, the persistence of violations and restrictions on freedom of expression in Nicaragua during COVID-19 and their implications for situations of poverty. Likewise, International experts also gave lectures on the phenomenon of disinformation, digital security tools and the use of the protection mechanisms of the Inter-American Human Rights System by journalists at risk.</p> <p>The workshops were conducted by the IACHR Special Rapporteurs, Edison Lanza and Soledad García, the Director of the George Washington University School of Communication, Silvio Waisbord, the Director of the International Fact-Checking Network (IFCN), Cristina Tardaguila and digital security expert Pablo Arcuri from (Internews). Likewise, the Executive Secretary of the IACHR, Paulo Abrao, and the coordinator of the Special Follow-up Mechanism for Nicaragua, MESENI, Alexandro Alvarez, presented the mechanisms that the IACHR had established to follow up on the situation in Nicaragua.</p>
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June 12, 2020	Inter-American standards on freedom of expression and the journalism card in Colombia	Antonio Nariño Project	Special Rapporteur Edison Lanza participated as a panelist in a Facebook live event organized by the Antonio Nariño Project to analyze the bill under consideration by Congress in Colombia on the establishment of the journalism card, in light of the Inter-American standards on freedom of expression.
June 12, 2020	Working meeting with CONNECTAS network of journalists in Latin America and the Caribbean	CONNECTAS	Special Rapporteur Edison Lanza was invited to participate in a conversation with members of the journalistic platform for the Americas CONNECTAS.
June 22, 2020 Uruguay	Launching event of the Uruguay Leaks platform	La Diaria Poder DATA	<p>Special Rapporteur Edison Lanza was invited to participate as a speaker at the launch event of the Uruguay Leaks platform, a project developed by the newspaper, PODER and DATA, within the framework of the LatamLeaks alliance. The platform uses GlobalLeaks technology and enables the exchange of information between journalists and sources in a secure manner.</p> <p>During the event, panelists discussed the right to information in the current regional and national context, and the risks and potential of using these platforms.</p> <p>Participants: Edison Lanza (Special Rapporteur for Freedom of Expression IACHR), Carolina Molla (Cainfo), Daniel Carranza (DATA), Alejandra Scampini (PODER) and Natalia Uval (la diaria). Moderator: Mariana Cianelli.</p>

<p>June 26, 2020 Washington D.C.</p>	<p>Webinar: Expectations for the election of the new Press Freedom Rapporteur".</p>	<p>Inter-American Press Association - IAPA</p>	<p>The Special Rapporteur, Edison Lanza, together with the President of the Inter-American Commission on Human Rights (IACHR), Joel Hernández, explained in this Webinar the process of transparency in the election of the person in charge of occupying the position of Special Rapporteur for Freedom of Expression of the IACHR and the importance of this office in the Inter-American human rights system.</p> <p>The Rapporteur took advantage of this space to speak about the achievements of his term and the challenges for the agenda of the new Rapporteur. The session was also attended by IAPA President Christopher Barnes and Roberto Rock, Chairman of the IAPA's Committee on Freedom of the Press and Information.</p>
<p>July 1st, 2020</p>	<p>Webinar: Journalistic and communicational work in the response to the covid-19 crisis.</p>	<p>Office of the United Nations High Commissioner for Human Rights in Honduras</p>	<p>Special Rapporteur Edison Lanza was invited to participate as a speaker in the Webinar "Journalistic and communicational work in the response to the covid-19 crisis" organized by the Office of the United Nations High Commissioner for Human Rights in Honduras.</p> <p>In this event, the Rapporteur was in charge of presenting the module on Freedom of Expression in the context of Covid 19 and ethical journalism: communication with a human rights perspective, gender approach and inclusive language.</p> <p>The event was also attended by Isabel Albaladejo, OHCHR Representative in Honduras, Piedad Huerta Arnero Representative of PAHO WHO in Honduras, Ana Ortega Human Rights Officer of the Democratic Space Unit of OHCHR, Dagoberto Rodriguez President of the Association of Journalists of Honduras, Maria Carrasco Human Rights Officer Coordinator of the Unit of economic, social, cultural and environmental rights of OHCHR and Evelin Molina Public Information Assistant of OHCHR.</p>

<p>July 2, 2020 Mexico</p>	<p>Webinar Presentation Geographies of violence: Cartography of aggressions against women journalists in Mexico.</p>	<p>Women's Communication and Information Network (CIMAC).</p>	<p>Special Rapporteur Edison Lanza was invited to participate as a speaker in the webinar Presentation Geographies of Violence: Mapping Aggressions against Women Journalists in Mexico organized by the Women's Communication and Information Network (CIMAC).</p> <p>At this event, the Rapporteur was in charge of presenting the segment on follow-up to the recommendations issued by the IACHR in the report of the Special Rapporteur for Freedom of Expression on "Women Journalists and Freedom of Expression: Discrimination and gender-based violence against women journalists in the exercise of their profession".</p>
<p>July 9, 2020 Brazil Washington D.C.</p>	<p>Webinar "Attacks on journalists: the right to information is a human right".</p>	<p>Brazilian Association of Investigative Journalism (Abraji) Agencia Lupa</p>	<p>Special Rapporteur Edison Lanza was invited by the Brazilian Association of Investigative Journalism (Abraji) and Agencia Lupa to participate as the main guest of the webinar "Attacks on journalists: the right to information is a human right".</p> <p>During the event, the Rapporteur was interviewed by journalists Gilberto Scofield Jr., director of Strategies and Business of Lupa, and Cristina Zahar, executive secretary of Abraji, about the threats to freedom of expression and press freedom in Brazil in the current pandemic scenario, as well as possible setbacks in public transparency. Disinformation - the subject of investigations in the STF and bills in Congress.</p>
<p>July 28, 2020</p>	<p>Internal Meeting Rightscon 2020</p>	<p>Access Now</p>	<p>Special Rapporteur Edison Lanza was invited to attend a closed meeting convened by Access Now as part of the Rightscon event to discuss Brazil's Fake News Bill 2630/2020.</p> <p>The meeting was attended and attended by Brazilian Civil Society, companies, assembly members, among others.</p>

<p>July 28, 2020</p>	<p>Rightscon 2020 Session on Internet Content Moderation.</p>	<p>Observacom Article19 Mexico RightsCon</p>	<p>Special Rapporteur Edison Lanza was invited to participate as a speaker in the session on Internet content moderation presented during the RighthstCon 2020 event and organized by Observacom and Articulo 19 Mexico.</p> <p>The session addressed specific principles, standards and measures for the development of different forms of self-regulation, co-regulation and public regulation, as well as recommendations for States and non-State actors to apply the principles of transparency, accountability and due process.</p> <p>Participants: Marcos Urupá (Intervozes of Brazil), Carolina Botero (Karisma Foundation of Colombia), Martha Tudón (Article 19 Mexico), Gustavo Gómez (OBSERVACOM), Guilherme Canela (UNESCO), Veridiana Alimonti (EFF) and María Paz Canales (Derechos Digitales).</p>
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<p>July 31, 2020 Rightscon</p>	<p>RightsCon 2020: Online Protest and lessons from the Pandemic</p>	<p>Office of the Special Rapporteur for Freedom of Expression IACHR RightsCon 2020</p>	<p>The Office of the Special Rapporteur for Freedom of Expression organized the Session Online Protests: Lessons from the Pandemic presented at the Rights Con 2020.</p> <p>The Session featured interventions by the Special Rapporteur for Freedom of Expression of the IACHR Edison Lanza, the Special Rapporteur on the right to freedom of peaceful assembly and association of the UN Clément Voule, Valeria Betancourt of APC, Laura Salas of Witness and Carolina Botero of Karisma Foundation.</p> <p>The session aimed to advance the concept of online protests and the relevance of the Internet as a means of organizing or as an enabling platform for protests. Through the examination of standards and case studies, the discussion aimed to better understand the role of the Internet in pushing the boundaries of democratic participation and the need to preserve the original architecture of the Internet in order to continue exercising fundamental rights.</p>
<p>August 6, 2020</p>	<p>Webinar: "The participation of civil society in the fight against corruption: a look from the IACHR report on "Corruption and Human Rights"".</p>	<p>DPLF</p>	<p>Special Rapporteur Edison Lanza participated as a speaker in the seminar organized by DPLF "The participation of civil society in the fight against corruption: a look from the IACHR report on "Corruption and Human Rights".</p> <p>On this occasion, the Rapporteur was able to refer to several of the discussions addressed by the report in its chapter on freedom of expression, such as obstructions by state entities to access to public information, criminal prosecution of those who investigate, among others.</p>

<p>August 20, 2020</p>	<p>Online Webinar: Children and adolescents and their right to freedom of thought, conscience and religion.</p>	<p>DNI Costa Rica</p>	<p>Special Rapporteur Edison Lanza participated in the dialogue on children and adolescents and their right to freedom of thought, conscience and religion organized by DCI Costa Rica.</p> <p>On this occasion, the Rapporteur stated that children and adolescents have the right to receive, seek and disseminate information as established in Article 13 of the American Convention, explaining that, although there may be measures restricting certain content, these must be legal, necessary and proportional.</p> <p>He also referred to new technologies, indicating that these have allowed children and adolescents to access public spaces and actively participate in cultural and entertainment life in a dimension that was previously unthinkable. Highlighting the role of digital interaction that has generated the capacity and potential for adolescents to participate in student political life or to demonstrate through protest.</p>
<p>August 20, 2020</p>	<p>8enpunto TV Interview</p>	<p>8enpunto Media</p>	<p>Rapporteur Edison Lanza was interviewed on El Salvador's 8enpunto program, where he expressed concern about the government's persistent disqualification of the press and retaliatory measures against critical media.</p>
<p>August 21, 2020</p>	<p>Master in International Human Rights Law from Universidad Diego Portales.</p>	<p>Diego Portales University</p>	<p>Special Rapporteur Edison Lanza participated as a lecturer in the module on freedom of expression of the Master in International Human Rights Law of the Universidad Diego Portales.</p>

<p>August 24, 2020 Nicaragua</p>	<p>Interview</p>	<p>5 Nicaragua Media</p>	<p>Rapporteur Edison Lanza was interviewed on the program Cinco Nicaragua where he spoke about the situation of freedom of expression in the country and the growing wave of criminalization and silencing of independent journalists. In this opportunity the Rapporteur highlighted the Inter-American standards on Freedom of Expression and free exercise of journalistic work emphasizing that those who express situations of public interest should not be criminalized and that journalists should not be subjected to criminal law for reporting or expressing themselves.</p>
<p>August 28, 2020 Bolivia</p>	<p>Democracies of high disinformation. How does fake news affect the quality of our democracies?</p>	<p>InternetBolivia.org Southern Affairs Canada British Embassy Bolivia</p>	<p>Melissa Cabrera, Project Manager of the Rapporteur's Office was invited to participate in the forum: Democracies of high disinformation: How fake news affects the quality of our democracies? The forum, organized by InternetBolivia.org, had the objective of analyzing how disinformation affects democracies at the regional level, with emphasis on recent events in Bolivia. During the workshop, the different areas in which disinformation operates, such as the media and the digital space, were discussed. At the same time, the responses of governments at the regulatory level were analyzed. It ended with a reflection on the risks of news for the rights to freedom of expression, participation and access to information.</p>

<p>September 8, 2020</p> <p>Regional</p>	<p>Latin American and Caribbean Internet Governance Forum:</p> <p>Virtual session: "Internet and Pandemic: Opportunities and human rights impacts of deployed technologies".</p>	<p>Derechos Digitales</p> <p>Adela Goberna</p>	<p>The Special Rapporteur Edison Lanza participated as a speaker at the Internet Governance Forum of Latin America and the Caribbean in the session "Internet and Pandemic: Opportunities and impacts on human rights of deployed technologies" within the segment "Freedom of expression in polarized political contexts during the pandemic" in this opportunity the Rapporteur was able to expose a little about the work that the Rapporteurship has been doing on disinformation, both in electoral contexts and in pandemic highlighting the production of relevant documents such as the guide on disinformation in electoral contexts and the standards on protection and access to freedom of expression and information in pandemic contained in Resolution 1/20 of the IACHR on Pandemic and Human Rights</p>
<p>September 9, 2020</p> <p>El Salvador</p>	<p>Conference: Freedom of Expression and the Situation of the Press in El Salvador</p>	<p>Special Commission, Legislative Assembly of El Salvador</p>	<p>Special Rapporteur Edison Lanza participated in a discussion of the Special Commission of the Legislative Assembly of El Salvador to investigate the harassment of journalists due to their work, editorial line and the use of public resources against opponents, where he informed the commission about the violations to freedom of expression and press by the Salvadoran State.</p>

<p>September 23, 2020 Washington D.C.</p>	<p>IACHR Webinar Freedom of Expression and Access to Information during the Pandemic</p>	<p>Inter-American Commission on Human Rights SACROI-COVID19</p>	<p>The Inter-American Commission on Human Rights (IACHR) and the Office of the Special Rapporteur for Freedom of Expression (RELE) held the virtual seminar "Freedom of Expression and Access to Information during the Pandemic".</p> <p>This event was held as part of a series of seminars organized by the IACHR in the framework of its SACROI- COVID 19, to address international and inter-American standards regarding the effects of the pandemic.</p> <p>The event was attended by the President of the IACHR Joel Hernandez, the Special Rapporteur Edison Lanza and interventions by experts such as Eduardo Bertoni, Director of the National Agency for Access to Public Information of Argentina, Catharine Christie of the Inter-American Dialogue, Jose Luis Sanz, Director of El Faro and Maria Paz Canales, Executive Director of Derechos Digitales.</p> <p>During the event, important topics were addressed such as the main threats that civil society has been facing regarding the right to privacy of individuals during the pandemic, threats to freedom of expression during the pandemic: Which countries and situations have drawn attention? and attacks and obstacles during the pandemic for the work of the press in Central America.</p>
<p>September 25, 2020 Colombia</p>	<p>Seminar: "Police limits in the context of social protest".</p>	<p>La Silla Vacía ICON-S Capítulo Colombia</p>	<p>The Special Rapporteur, Edison Lanza, was invited to participate in the seminar Limits of the Police in the context of social protest, on this occasion the Rapporteur had the opportunity to present the Inter-American standards developed in the report of the Office of the Special Rapporteur on Protest and Human Rights.</p>

<p>October 15, 2020 Washington D.C.</p>	<p>Webinar: Takeover: Moot public hearing "Internet access and online violence".</p>	<p>Inter-American Commission on Human Rights</p>	<p>Special Rapporteur Pedro Vaca participated along with Commissioners Julissa Mantilla, Esmeralda Arosemena and Acting Executive Secretary Maria Claudia Pulido in this activity that aimed to provide information on the context of vulnerability of girls and adolescents in the virtual environment.</p> <p>During the activity, important topics for the Rapporteurship were addressed, such as the right of access to the Internet, the need to protect the right to freedom of expression online and the duty of States to protect the most vulnerable populations.</p>
<p>October 22, 2020 Colombia</p>	<p>Forum entitled "Right of access to environmental information: Challenges regarding the entry into force of the Escazú Agreement".</p>	<p>Office of the Attorney General of Colombia XIX Meeting of the Transparency and Access to Information Network (RTA)</p>	<p>The Office of the Attorney General of Colombia invited Special Rapporteur Pedro Vaca to participate in the forum "Right of access to environmental information: Challenges regarding the entry into force of the Escazú Agreement", the purpose of which was to examine the opportunities offered by the Escazú Agreement for strengthening the fundamental right of access to public information in Colombia.</p>

<p>October 27, 2020 Regional</p>	<p>Event: Launching of the proposal "Regulation of large platforms: standards to protect freedom of expression on the Internet".</p>	<p>OBSERVACOM - Observatorio de Regulación de Medios y Convergencia (Regional)</p> <p>Coletivo Intervozes (Brazil)</p> <p>IDEC - Instituto Brasileiro de Defesa do Consumidor (Brazil)</p> <p>TEDIC - Technology, Education, Development, Research and Communication Association (Paraguay)</p> <p>CAinfo - Center for Archives and Access to Public Information (Uruguay)</p> <p>Digital Users (Ecuador)</p> <p>PROLEDI - Freedom of Expression and Right to Information Program of the University of Costa Rica (Costa Rica)</p> <p>Digital Development (Argentina)</p> <p>IPANDETEC - Panamanian Institute of Law and New Technologies (Panama)</p> <p>Fundación Datos Protegidos (Chile)</p>	<p>The Special Rapporteur Pedro Vaca was invited to participate as a special guest at the event to launch the proposal "Regulation of platforms: standards to protect freedom of expression on the Internet".</p> <p>This document prepared by various Latin American organizations expresses the need to apply an adequate, balanced and democratic regulation to the corporations in charge of the platforms, which have been applying mechanisms of healing and moderation in the content of their users.</p> <p>The proposal seeks to propose mechanisms that guarantee respect for users' freedom of expression and maintain a free and open Internet, with content moderation policies compatible with international human rights standards.</p>
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<p>October 29, 2020 Brazil</p>	<p>Webinar on Disinformation, Hate Speech and Political Violence on the Internet</p>	<p>Permanent Commission on the Right to Communication and Freedom of Expression - National Human Rights Council - CNDH Brazil</p>	<p>The Special Rapporteur Pedro Vaca was invited by the Permanent Commission on the Right to Communication and Freedom of Expression of the National Council of Human Rights - CNDH of Brazil to participate in the forum on Disinformation, Hate Speech and Political Violence on the Internet.</p> <p>During the event, the Rapporteur made reference to Inter-American standards related to issues such as hate speech and limits to freedom of expression, political violence on the Internet and disinformation.</p> <p>The event also included interventions by</p> <ul style="list-style-type: none"> - Aline Osório (Coordinator of the Group for Confronting Disinformation of the Superior Electoral Court of Brazil - TSE); - Paulina Gutierrez (Legal Officer/Law & Policy Programme at ARTICLE 19).
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<p>October 30, 2020 Honduras</p>	<p>Webinar: "Limitations of the right of access to public information in the territories during the pandemic".</p>	<p>C-Libre</p>	<p>Special Rapporteur Pedro Vaca was invited to participate as a speaker in the webinar "Limitations of the right of access to public information in the territories during the pandemic" organized by the C-Libre Foundation of Honduras.</p> <p>During the event, the various conditions and difficulties that Honduran communities have been facing to access public information of interest on the management and handling of the pandemic were addressed.</p> <p>On this occasion, the Rapporteur had the opportunity to explain a little about the particularities of Honduras compared to the region, taking into account that it is one of the most dangerous countries for the practice of journalism, due to restrictions on free access to public information, impunity in violent attacks and the imposition of national regulations that promote secrecy. Likewise, he also referred to the standards, recommendations and State obligations regarding access to public information, making reference to the most recent standards developed on the matter, as set forth in the report of the Rapporteur's Office on Access to Public Information and National Security published in September 2020.</p>
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<p>November 3, 2020 Mexico</p>	<p>Digital Forum "Investigative Journalism and the Right of Access to Public Information".</p>	<p>National Institute for Transparency, Access to Information and Protection of Personal Data (INAI)</p> <p>United Nations Educational, Scientific and Cultural Organization (UNESCO)</p> <p>Citizens' Council of the National Journalism Award</p>	<p>Special Rapporteur Pedro Vaca was invited to participate as a panelist in the forum "Investigative Journalism and the Right of Access to Public Information" organized by the National Institute of Transparency of Mexico and UNESCO in the framework of the International Day to End Impunity for Crimes against Journalists.</p> <p>The purpose of this event was to analyze how the right of access to public information has become a fundamental tool for investigative journalism and to reflect on the ethical criteria that must be observed in the practice of journalism. In addition, the "Puntual" tool was presented, aimed at journalists at risk.</p>
<p>November 3, 2020 Mexico</p>	<p>Promotional activity of the General Directorate of Human Rights (DGDH) of the Mexican Supreme Court of Justice.</p> <p>Topic: "Dialogue with the ISHR - The Office of the Special Rapporteur for Freedom of Expression"</p>	<p>General Directorate of Human Rights (DGDH) of the Mexican Supreme Court of Justice</p>	<p>The Special Rapporteur Pedro Vaca was invited to participate in an academic promotion activity organized by the Directorate General of Human Rights (DGDH) of the Supreme Court of Justice of Mexico.</p> <p>This activity is carried out with the objective of strengthening dialogue and interaction between the bodies of the Inter-American Human Rights System and the Supreme Court, on this occasion it was the opportunity to talk with the Court about the mandate of the Rapporteur's Office and the projects that it develops.</p>
<p>November 6, 2020 Argentina</p>	<p>15th International Congress of Journalism FOPEA "The reconstruction of the profession: towards the human and social".</p>	<p>Congress of Journalism FOPEA</p>	<p>Special Rapporteur Pedro Vaca was invited to participate in the 15th International Congress of Journalism FOPEA 2020, as a panelist within the segment Freedom of Expression, what 2020 leaves and what is coming.</p> <p>Ignacio Boulín (Coordinator of FOPEA's Lawyers Network) and Paula Moreno (Director of EQSnotas and Vice President of FOPEA) also participated in the panel.</p>

<p>November 9, 2020 Bogotá</p>	<p>Forum: "Connectivity, vital minimum and digital divide".</p>	<p>Center for ICT, New Media and Digital Divide Thinking National University of Colombia (UNAL)</p>	<p>Special Rapporteur Pedro Vaca participated in the Forum "Connectivity, vital minimum and digital divide. Towards a democratic and independent regulation", organized by the Center for ICT Thinking, New Media and Digital Divide of the National University of Colombia (UNAL), whose objective was to discuss the draft Law 030/2020 being processed in the Sixth Commission (Transport and Telecommunications), which proposes the establishment of a vital minimum of Internet in Colombia.</p>
<p>November 9, 2020 México</p>	<p>Latin American Conference of Investigative Journalism (COLPIN)</p>	<p>Instituto Prensa y Sociedad (IPyS) ARTICLE 19, Mexico and Central America Office</p>	<p>Special Rapporteur Pedro Vaca was invited to participate in the Colpin 2020 Forum, which was a space for reflection, based on the experience and vision of the participating journalists, on the risks and various forms of violence that limit and threaten freedom of expression and investigative journalism in the countries of the region, as well as the strategies and actions to be implemented to address them, taking into account the context posed by the Covid 19 pandemic.</p>
<p>November 11, 2020</p>	<p>Discussion on violations of freedom of speech and press freedom in Nicaragua</p>	<p>Nicaragua Nunca+ Human Rights Collective</p>	<p>Special Rapporteur Pedro Vaca participated in a discussion on violations of freedom of expression and press freedom in Nicaragua organized by the Human Rights Collective Nicaragua Nunca+, which was attended by independent journalists from various regions of the country.</p> <p>During the event, they discussed the serious situation of Nicaraguan journalists who regularly face threats, persecution, harassment and stigmatization.</p>

November 23, 2020	Report of the high-level panel of legal experts on the application of media freedom to provide safe refuge for journalists at risk.	International Bar Association's Human Rights Institute - IBAHRI	Special Rapporteur Pedro Vaca endorsed the Report of the high-level panel of legal experts on the application of media freedom to provide safe refuge for journalists at risk, conducted by IBAHRI.
November 23, 2020	VIII Session: Abogado General Hernán Sanhueza Ramírez: "Police role and criminal process".	Academia Humanitas of Chile.	<p>The Special Rapporteur Pedro Vaca offered the Master Class: "Police Role, Human Rights and the Rule of Law", commented by the Minister of the Supreme Court of Justice of Chile, Manuel Valderrama Rebolledo.</p> <p>The meeting was a platform to reflect on the challenges and opportunities related to the police duty, human rights and the demands of the Rule of Law. The activity is part of the Inaugural Session of the VIII Jornadas Policiales Abogado General Hernán Sanhueza Ramírez.</p>
November 26, 2020	"Constitutional anti-blockade law for national development and guarantee of human rights."	Academy of Political and Social Sciences of Venezuela	The Academy of Political and Social Sciences of Venezuela invited the Special Rapporteur Pedro Vaca to participate in a conversation to discuss the implications in terms of freedom of expression of the "Constitutional anti-blockade law for national development and the guarantee of human rights". The law was issued by the Constitutional National Assembly (ANC) and was published in the Official Gazette No. 6583 of October 12, 2020 of Venezuela.
November 26, 2020	Forum to discuss the new Regime for the Protection of Users' Rights	Regulatory Commission of Colombia's Communications	Special Rapporteur Pedro Vaca was invited by the Colombian Communications Regulatory Commission to participate in a conversation to discuss the new Regime for the Protection of Users' Rights.

<p>December 9, 2020</p>	<p>Forum: Legal Stakeholders on Freedom of Expression and the Safety of Journalists</p>	<p>World Freedom Conference T.M.C. Asser Institute in collaboration with the Ministry of Foreign Affairs of the Netherlands, UNESCO and Free Press Unlimited</p>	<p>Special Rapporteur Pedro Vaca participated in the Legal Stakeholders Forum on freedom of expression and safety of journalists organized by T.M.C. Asser Institute in collaboration with the Ministry of Foreign Affairs of the Netherlands, UNESCO and Free Press Unlimited. The meeting was a scenario to exchange stand views and share best practices on specific issues related to the protection of the universal right to freedom of expression based on global, regional and national experiences. It was also an opportunity to facilitate the dissemination of knowledge regarding international norms governing freedom of expression, the main standards of comparative law, and the interpretation of these legal provisions in the digital dimensions.</p>
<p>December 10, 2020</p>	<p>Session with UN and regional Special Rapporteurs on freedom of expression mandates.</p>	<p>Article 19 - London World Press Freedom Conference</p>	<p>Article 19 London organized a session dedicated to the Special Rapporteurs on Freedom of Expression in the framework of the 2020 World Press Freedom Conference. The session was attended by IACHR Special Rapporteur for Freedom of Expression Pedro Vaca, the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression Irene Khan and the Special Rapporteur for Freedom of Expression and Access to Information of the African Commission, Jamesina King. During the meeting, the Rapporteurs discussed the work they have been doing in the area of freedom of expression and the issues they are addressing in their respective mandates.</p>

December 10, 2020	Discussion: Freedom of expression in Honduras is going through its worst crisis.	PEN Internacional Honduras	Special Rapporteur Pedro Vaca was invited by Centro Pen Honduras and Pen International to participate as a panelist in the International Forum for Freedom of Expression. During the event, the Rapporteur presented his perspective on the situation of freedom of expression in Honduras during the year 2020 and reviewed the recommendations established on freedom of expression in the framework of the Inter-American human rights standards, calling to guarantee the exercise of freedom of expression and the protection of those who exercise it.
December 10, 2020	Joint Declaration on the Right to Freedom of Peaceful Assembly and Democratic Governance.	Special Rapporteur for Freedom of Expression of the IACHR United Nations Special Rapporteur on Freedom of Peaceful Assembly and Association, OSCE/ODIHR	The IACHR's Office of the Special Rapporteur for Freedom of Expression participated in the drafting of the joint declaration on peaceful assembly and democratic governance. The declaration was published in December by initiative of the United Nations Special Rapporteur on freedom of peaceful assembly and association, Clement Voule, in which the African Commission on Human and Peoples' Rights and the OSCE/ODIHR also participated.
December 10, 2020	Anniversary event in commemoration of the Journalists of Diario el Comercio killed in 2018 between the Ecuadorian and Colombian Border.	Fundamedios Ecuador	The Special Rapporteur, Pedro Vaca, was invited to participate as a panelist in the forum: "One year after the report, has the State complied?" During the event the Rapporteur reflected on the international obligations of the Ecuadorian State in the case of kidnapping and murder of Javier Ortega, Paul Rivas and Efraín Segarra, journalists of the newspaper El Comercio murdered in 2018 between the border of Ecuador and Colombia.

December 21, 2020	Awards Ceremony: "First National Contest of Journalism, Research and Public Information Applications: The right of access to information as an instrument for a democratic, better informed and more participatory society".	National Institute of Transparency, Access to Information and Protection of Personal Data of Mexico INAI.	Special Rapporteur Pedro Vaca was invited by Mexico's National Institute for Transparency, Access to Information and Protection of Personal Data to participate with a welcome message at the awards ceremony of the "First National Competition for Journalism, Research and Applications of Public Information: The right of access to information as an instrument for a democratic, better informed and more participatory society".
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5) Working visits and meetings

25. Below is a summary of the working visits and meetings carried out by the Office of the Special Rapporteur in 2020:

Country	Date/ Place	Institution	Description
Chile	25 to 31 January 2020	On-site visit of the IACHR to Chile	<p>Special Rapporteur Edison Lanza participated with the Commission in the on-site visit to Chile to observe the human rights situation in the country in the context of the social protests.</p> <p>The IACHR and SR Rapporteur visited several such as Santiago, Arica, Temuco, Ercilla, Concepción, Antofagasta, and Valparaíso, the towns of Lo Hermida and Pudahuel Sur. Places such as the the Santiago 1 Preventive Detention Center, the 3rd Carabineros Police Station, the Temuco Penitentiary Compliance Center and the SENAME San Miguel Family Residence and CREAD Pudahuel.</p> <p>The Special Rapporteur Edison Lanza held meetings with about 30 journalists and members of numerous civil society organizations to monitor the state of freedom of expression in Chile.</p> <p>He also held bilateral meetings with State authorities, parliamentarians and members of Congress and with authorities such as the Institute of Transparency and Access to Public Information, and with representatives of</p>

<p>Bogotá – Cúcuta, Colombia</p>	<p>February 4 to 7, 2020</p>	<p>Visit to the border between Colombia and Venezuela</p>	<p>Special Rapporteur Edison Lanza participated in the IACHR's visit to Colombia to address, from the Colombian-Venezuelan border, the situation of Venezuelan migrants and the serious social and political crisis that the country is going through (Venezuela).</p> <p>During the visit, the Special Rapporteur attended, together with the IACHR delegation, different meetings in the border city of Cúcuta in Norte de Santander, with Colombian and Venezuelan civil society organizations, exile journalists and Venezuelan victims' groups of human rights violations.</p> <p>The SR participated in visits to the Simón Bolívar Bridge, the Erasmo Meoz University Hospital, the Scalabrinian Mission and numerous meetings with international organizations such as the UNHCR, the IOM, the Pan American Health Organization, as well as deputies in exile, victims' groups living in Colombia, and others displaced from the states of Táchira and Zulia in Venezuela.</p> <p>Similarly, the SR Edison Lanza held various meetings with journalists from various media outlets such as Espacio Público, Transparency International, IPYS Venezuela, and the journalists' union, among others, who sent their delegates or representatives to Cúcuta to present their reports to the Rapporteur. At the same time, the Rapporteur attended, coordinated, and gave various interviews to both Colombian and Venezuelan media outlets to discuss the situation of journalists, restrictions on the exercise of freedom of expression in Venezuela, and</p>
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Lima, Perú	November 29 to December 2, 2020	IACHR working visit to Peru	<p>The working visit to Peru took place from November 29 to December 2, 2020, with the purpose of observing on the ground the human rights situation in the context of the social protests related to the recent political and institutional crisis.</p> <p>The IACHR delegation was led by its Chairman, Joel Hernández, Commissioner Stuardo Ralón, Rapporteur for Peru, the Interim Executive Secretary, María Claudia Pulido, the Special Rapporteur for Freedom of Expression, Pedro Vaca, and members of the technical team of the Executive Secretariat.</p> <p>During the four-day visit, Special Rapporteur Pedro Vaca held meetings and collected testimonies from victims, received information from journalists, demonstrators and authorities about the events that occurred in the context of the protests, and visited the locations where the events occurred.</p> <p>The Rapporteur also attended interviews with the President of the Republic, Francisco Sagasti, the Minister of Foreign Affairs, Elizabeth Astete and the Minister of Justice, Eduardo Vega, and meetings with the Minister of the Interior, the Director General of the Police, the Congress of the Republic, the Constitutional Court, the</p>
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Work meetings

Date/Place	Meeting	Description
19 December 2019 Port au Prince Haiti	Meeting with Haitian journalists and media	Special Rapporteur Edison Lanza met with journalist Franz Duval, President of Haiti's ANNH and the Magik 9 radio station, and other journalists to discuss issues relating to the situation of freedom of expression and the journalistic exercise in the aforementioned country.

<p>5 February 2020, Bogotá (Colombia)</p>	<p>Meeting with Venezuelan media and journalists in the framework of the IACHR's visit to the Colombo-Venezuelan border</p>	<p>Special Rapporteur Edison Lanza met with journalists from the media outlet Armando Info, who reported judicial harassment, threats and censorship by the Venezuelan government in response to his journalistic investigations into various acts of corruption committed by public officials and in state entities.</p> <p>The meeting was attended by the President of the IACHR Esmeralda Arosemena de Troitiño and IACHR's Executive Secretary Paulo Abrao.</p>
<p>February 7, 2020, Cúcuta, Colombia</p>	<p>Meeting with Venezuelan media and journalists in the framework of the IACHR's visit to the Colombo-Venezuelan border</p>	<p>Special Rapporteur Edison Lanza held a meeting with representatives of different Venezuelan media from El Pitazo, Diario Tal Cual, VNPTV, Diario de los Andes, and El Estimulo Media who reported about the struggle that journalists face to continue covering the humanitarian crisis on the border of Colombia and Venezuela (Tachira and Cúcuta) cities.</p> <p>They denounced the blocking of web pages, harassment by authorities, sabotage of radio stations and the lack of connectivity and basic supplies.</p>
<p>February 27, 2020, Tegucigalpa Honduras</p>	<p>Lunch with journalists and civil society organizations on freedom of expression in Honduras.</p>	<p>Special Rapporteur Edison Lanza attended a lunch with Honduran journalists from various media outlets and members of ASOPODEHU to discuss the situation of freedom of expression and the challenges for the practice of journalism in the country.</p>
<p>February 27, 2020, Tegucigalpa Honduras</p>	<p>Meeting with AIP and C-Libre organizations</p>	<p>Special Rapporteur Edison Lanza met with the Commissioners of the Institute of Access to Public Information of Honduras and with the organization C-Libre to review progress on projects and legislation regarding access to information.</p>

<p>February 28, 2020, Tegucigalpa Honduras</p>	<p>Meeting with the Human Rights Secretariat's group for the protection of journalists</p>	<p>Rapporteur Edison Lanza held a meeting with officials Karen Lagos and José Danilo Morales of the Protection for Journalists group of the Human Rights Secretariat to review the security situation and progress in protection measures for journalists who are victims of harassment, persecution and threats in Honduras.</p>
<p>July 9, 2020 Washington D.C.</p> <p>Brazil</p>	<p>Meeting with Brazilian civil society organizations.</p> <p>176th Period of Sessions of the Inter-American Commission on Human Rights</p>	<p>The Office of the Special Rapporteur for Freedom of Expression organized a closed meeting with different civil society organizations, associations and journalists from Brazil within the framework of the 176th Period of Sessions of the Commission.</p> <p>This event provided a space for the exchange of information and was an opportunity for the Rapporteur and his team to receive updated information on the serious situation of freedom of expression and restrictions faced by journalists in the country.</p>
<p>July 10, 2020 Washington D.C.</p>	<p>176th Period of Sessions of the Inter-American Commission on Human Rights</p>	<p>The Rapporteur and the office's team participated in a meeting with civil society organizations on freedom of expression organized by the IACHR in the framework of the 176th period of sessions with the purpose of addressing the current requirements and challenges in the region regarding violations and restrictions to freedom of expression.</p>
<p>July 13 2020 Washington D.C.</p>	<p>Bilateral Meeting</p> <p>176th Period of Sessions of the Inter-American Commission on Human Rights</p>	<p>Melissa Cabrera, Program Manager of the Office of the Rapporteur participated in the working meeting with the IACHR convened by CEJIL and Frontline Defenders to address the situation of human rights defenders and journalists in Mexico.</p>

<p>July 13 2020 Washington D.C.</p>	<p>Meeting with Venezuelan civil society and journalists</p> <p>176th Period of Sessions of the Inter-American Commission on Human Rights</p>	<p>The Office of the Special Rapporteur for Freedom of Expression organized a closed meeting with different civil society organizations, associations and journalists of Venezuela within the framework of the 176th Period of Sessions of the Commission.</p> <p>This event provided a space for the exchange of information and was an opportunity for the Rapporteur and his team to receive updated information on the serious situation of freedom of expression and restrictions faced by journalists in the country.</p>
<p>July 15 2020 Washington D.C.</p>	<p>Bilateral Meeting</p> <p>176th Period of Sessions of the Inter-American Commission on Human Rights</p>	<p>Cecilia La Hoz, senior lawyer of the Rapporteurship, participated in the IACHR meeting convened by Artículo 19 on Violations of the right of access to information and transparency related to the fight against the COVID-19 pandemic in Brazil.</p>
<p>July 29 2020</p>	<p>Meeting with the Brazilian Chamber of Deputies to discuss bill 2630/2020</p> <p>Participants:</p> <p>Chamber of Deputies of Brazil</p> <p>Permanent Mission of Brazil to the OAS</p> <p>Office of the Special Rapporteur for Freedom of Expression</p>	<p>The Special Rapporteur for Freedom of Expression Edison Lanza was invited by the Brazilian Chamber of Deputies to offer technical advice and provide recommendations in the framework of the discussion of bill 2630/2020 in light of the Inter-American standards on Freedom of Expression and Disinformation in electoral contexts.</p> <p>The deputies recognized after the discussion that some of the provisions of the bill's wording could result in greater power of censorship and private control of content by the platforms and committed to review the data storage obligations for messaging platforms, taking into account that these could violate the right to privacy and Freedom of Expression of citizens and that it is essential to respect the principle of purpose in the use of personal data.</p>

<p>October 14, 2020</p>	<p>Meeting with the Commission for the Clarification of the Truth, Coexistence and Non-Repetition in Colombia</p>	<p>The Office of the Special Rapporteur for Freedom of Expression held a virtual meeting with the Commission for the Clarification of Truth, Coexistence and Non-Repetition (CEV) Colombia.</p> <p>On this occasion, the Commission had the opportunity to inform the Special Rapporteur Pedro Vaca about the difficulties faced by the institution internally to access information from several state authorities in Colombia, highlighting the impact that this situation may have on the progress of the investigations conducted by the Commission, with less than fourteen months to the end of its mandate.</p>
<p>October 15, 2020</p>	<p>Due Process of Law Foundation – El Salvador</p>	<p>The Office of the Special Rapporteur for Freedom of Expression held a virtual meeting with DPLF in order to inform the Office of the Rapporteur about the attacks on the independent press that have taken place during 2020 in El Salvador.</p> <p>The meeting was attended by journalists from the Association of Journalists of El Salvador (APES), El Faro, FocosTV, Gato Encerrado, Revista Factum, and Due Process of Law Foundation. They highlighted the increased harassment of journalists by government authorities since the beginning of the pandemic, as well as the stigmatizing discourse and the rhetoric of journalism as the "enemy". The journalists reiterated the importance of obtaining a public hearing before the Inter-American Commission, given that the facts are escalating to more serious issues.</p>
<p>November 9, 2020</p>	<p>Amnesty International</p>	<p>Amnesty International's Americas Office held a meeting with the Special Rapporteur for Freedom of Expression to discuss about the situation of freedom of expression and to present to the office its latest report on protests in the U.S. called, USA: losing the peace U.S. police failure to protect protesters from violence.</p>

<p>November 10, 2020</p>	<p>Due Process of Law Foundation - Regional</p>	<p>DPLF requested the Office of the Special Rapporteur for Freedom of Expression to hold a virtual meeting to inform the Special Rapporteur about the difficulties in terms of transparency and access to public information that have been observed at the regional level during 2020, in the context of the health crisis caused by the coronavirus.</p> <p>Mainly, the organizations highlighted the importance of putting on the agenda of the Rapporteurship the problems of access to justice, accountability and exercise of citizen participation in the context of the pandemic, due to the little or no information provided by the States, especially in digital format. They pointed out that these problems are compounded by the lack of access to the Internet for many individuals and groups of people, and the few statistics that exist on the digital divide in the region.</p>
<p>November 11, 2020</p>	<p>International Association of Radio Broadcasters -AIR</p>	<p>Special Rapporteur Pedro Vaca met with the International Association of Broadcasters -AIR- an organization that groups private radio and television associations, television channels and radio stations of the three Americas, which permanently defends freedom of expression and information, and advocates for the development of private radio broadcasting, representing some 17,000 commercial radio and television stations.</p> <p>During the meeting participated Eugenio Sossa Mendoza (El Clarín-Argentina), Mr. José Luis Saca (El Salvador-1st vice-president), Mr. Tulio Angel (Colombia-2nd vice-president), and General Director Juan Andrés Lerena.</p>

November 24, 2020	OHCHR-Guatemala	Special Rapporteur Pedro Vaca met with the OHCHR-Guatemala office to discuss the joint work that the office has been developing with this organization with respect to the follow-up of cases of attacks on journalists and for the promotion and defense of the right to freedom of expression of Indigenous Peoples and the issue of community radio stations. As well as working in synergy to provide technical assistance to the State of Guatemala: the program for the protection of journalists and the public policy for the protection of human rights defenders, including journalists.
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6) Annual Report and Development of Expert Knowledge

26. One of the main tasks of the Office of the Special Rapporteur is the preparation of the annual report on the state of freedom of expression in the hemisphere. Every year, this report analyzes the state of enjoyment of the right to freedom of expression in the States of the hemisphere, which includes noting the main threats to the exercise of the right to freedom of expression and the progress that has been made in this area.

27. Besides its annual reports, the Office of the Special Rapporteur periodically produces specific reports on particular countries. For example, it has prepared and published special reports on the situation regarding the right to freedom of expression in Paraguay (2001), Panama (2003), Haiti (2003), Guatemala (2004), Venezuela (2004), Colombia (2005), Honduras (2009, 2010 and 2015), Venezuela (2009 and 2010), Mexico (2010 and 2015), Chile (2017), Cuba (2018) and Ecuador (2019)

28. In September 2020, the Office of the Special Rapporteur for Freedom of Expression of the IACHR published its thematic report "Right to Information and National Security", which addresses the legal and factual obstacles existing in the region to harmonize the circulation of information of public interest and national security interests. The report examines the national security exception, as well as the challenges that citizens still face in accessing information on issues of high public interest such as archives and documents on serious human rights violations, or information that can help combat corruption and abuses of power.

7) Special statements and Declarations

29. Through the daily monitoring of the state of freedom of expression in the region—conducted by means of an extensive network of contacts and sources—the Office of the Special Rapporteur issues statements such as press releases, reports, and opinions on specific cases or situations that are relevant to the exercise of this fundamental right. Press releases issued by the Office of the Special Rapporteur receive wide coverage and constitute one of its most important work mechanisms.

30. The Office of the Special Rapporteur receives many emails, which mainly refer to alerts, press releases, requests for information, and queries on freedom of expression in the region. Likewise, a small group of the emails refers to formal requests to the IACHR Individual Case System, and another group refers to topics that are not within the Office's jurisdiction. The Office of the Special Rapporteur reviews, filters, and classifies the information received to establish the actions to be taken.

31. In addition, since its creation the Office of the Special Rapporteur has participated in the drafting of joint declarations with the other regional rapporteurs and the UN rapporteur for freedom of expression. These joint statements are generally signed by the UN Special Rapporteur; the Representative on Freedom of the Media of the Organization for Security and Co-operation in Europe (OSCE); the Special Rapporteur of the

OAS, and the Special Rapporteur on Freedom of Expression and Access to Information of the African Commission on Human and Peoples' Rights. When the issues are regional in nature, the declarations are signed by the Rapporteurs for the UN and the OAS.

32. Joint statements constitute an important tool for the work of the Office of the Special Rapporteur. In previous years, these statements have covered different topics related to freedom of expression, according to context and time⁹.

33. On April 30, 2020, UN, OSCE and OAS Freedom of Expression Experts presented the 2020 Joint Declaration on Elections and Freedom of Expression in the Digital Age through a virtual conference. The Declaration highlights the fundamental role that freedom of expression, access to information, independent media and a free Internet play in ensuring free, fair and transparent elections. The Declaration includes a series of recommendations addressed to States and a set of good practices that should be adopted by media, digital platforms, parties and candidates on how to address current challenges and protect freedom of expression during elections in the digital age. The Declaration was signed by the United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, David Kaye, the Representative on Freedom of the Media of the Organization for Security and Cooperation in Europe (OSCE), Harlem Desir and the Special Rapporteur for Freedom of Expression of the Organization of American States (OAS), Edison Lanza.

34. In the framework of attention to the COVID-19 pandemic, the Office of the Special Rapporteur, jointly with the Special Rapporteurs for Freedom of Expression and Opinion of the UN and the OSCE, issued in March 2020 a statement on access to and free flow of information during the pandemic, calling on States to guarantee these rights without undue restrictions. The statement has been widely used by civil society and guarantor bodies around the world to prevent or reverse possible limitations to these rights.

35. Continuing the joint work with the United Nations Special Procedures and other Special Rapporteurs, the Office of the Special Rapporteur participated in the elaboration of the Joint Declaration on the Right to Freedom of Peaceful Assembly and Democratic Governance published on December 10, 2020.

36. Likewise, in the framework of attention to the pandemic, the Office of the Special Rapporteur provided expert advice to the IACHR for the preparation of Resolution 1/20 - Pandemic and Human Rights and Resolution 4/20 - Human Rights of Persons with AIDS-19. In the sections on the right of access to information, including the prohibition of censorship, and the guarantee of access to the Internet; the special care of public officials' statements; the fight against disinformation; the role of journalism; the right to privacy and the protection of personal data; and safeguards against surveillance activities.

37. During 2020, the Office of the Special Rapporteur issued different press releases to raise awareness on facts related to freedom of thought and expression. These statements highlight especially worrying facts and the best local practices, and explain the respective regional standards. Press releases issued during 2018 can be seen in the webpage of the Office of the Special Rapporteur for Freedom of Expression of the IACHR.¹⁰

2020 Press Releases:

Country	Topic	Number	Title	Place / Date
Colombia	Surveillance and Internet	R10/20	IACHR and its Office of the Special Rapporteur express deep concern over complaints of espionage of journalists, human rights defenders, judges, and political leaders in Colombia	Washington, D.C. January 16, 2020

⁹ Available at: <http://www.oas.org/en/iachr/expression/docListCat.asp?catID=16&IID=>

¹⁰ Available at: <http://www.oas.org/en/iachr/expression/artListCat.asp?year=&countryID=&IID=1&catID=1>

Regional	Training	Announcement	Applications open for the 6th Edition of the online course: International Legal Framework for Freedom of Expression, Access to Public Information and Protection of	Washington , D.C. January 21st, 2020
Brazil	Violence against journalists	R22/20	Brazil: UN and IACHR experts express concern over the complaint against journalist Glenn Greenwald	Washington , D.C. January 21, 2020
Paraguay	Violence against journalists	R41/20	Office of the Special Rapporteur condemns murder of journalist Leo Veras in Paraguay and calls for decisive action to prevent and investigate crimes against journalists	Washington D.C., February 17, 2020
Regional	Protocols	R45/20	IACHR and the Offices of the Special Rapporteurs present the "Guidelines on the activities and functions provided in the mandates of the Special Rapporteurships of the	Washington D.C., February 18, 2020
Regional	Announcement	N/A	The Office of the Special Rapporteur of the IACHR opens the call for applications: for the Orlando Sierra Fellowship.	Washington D.C., February 21 2020
Guatemala	Violence against journalists	R52/20	Office of the Special Rapporteur condemns the murder of journalist Bryan Guerra and calls on the State of Guatemala to expedite the creation of a protection mechanism for journalists	Washington D.C. March 11, 2020
Cuba	Violence against journalists	R55/20	Office of the Special Rapporteur for Freedom of Expression condemns increased criminalization and harassment of journalists, activists, and artists who exercise freedom of expression in Cuba	Washington D.C. March 17, 2020
Regional	COVID19 and Freedom of Expression	R58/20	COVID-19: Governments must promote and protect access to and free flow of information during pandemic – International experts	Washington D.C. March 19, 2020
Mexico	Violence against journalists	R67/20	The Office of the Special Rapporteur condemns murder of journalist María Elena Ferral in Veracruz and expresses concern over persistence of violence against communicators in Mexico	Washington D.C. April 3, 2020

Regional	Reports	R69/20	The Office of the Special Rapporteur for Freedom of Expression presents its Annual Report on the situation of freedom of expression during 2019	Washington , D.C. April 7, 2020
Regional	COVID19 and Freedom of Expression	R78/20	IACHR and its SR FOE express concern about restrictions on freedom of expression and access to information in States' response to the COVID-19 pandemic	Washington , D.C. April 18, 2020
Regional	Joint Declarations	R94/20	Joint declaration on freedom of expression and elections in the digital age of the (UN), (OSCE) and (OAS) Special Rapporteurs	Washington , D.C. April 30, 2020
Nicaragua	COVID19 and Freedom of Expression	R119/20	IACHR, OSFRE, and OSRFOE Express serious concern over violations of the right to information in Nicaragua and the impact of these on access to health during the COVID-19 Pandemic	Washington , D.C. May 27, 2020
Estados Unidos	Protest and Freedom of Expression	R128/20	United States: UN and OAS experts condemn use of force against journalists covering protests in the US	Washington , D.C. June 8, 2020
Chile	Restrictions and criminalization of Freedom of Expression	R152/20	The Office of the Special Rapporteur for Freedom of Expression expresses concern over criminal investigation initiated in Chile against members of Las Tesis	Washington , D.C. June 29, 2020
Honduras	Violence against journalists	R161/20	The Special Rapporteur's Office condemns the double murder of journalists Germán Vallecillo and Jorge Posas in Honduras; it is urgent to continue the investigation in line with journalistic activity.	Washington , D.C. July 9, 2020
México	Violence against journalists	R191/20	Office of the Special Rapporteur Condemns the Murder of Journalist Pablo Morrugaes in Mexico and Expresses Concern regarding the Persistent Violence Against the Press	Washington , D.C. August 5, 2020
Venezuela	Violence against journalists	R204/20	The Office of the Special Rapporteur condemns the murder of journalists Andrés Eloy Nieves Zacarías and Víctor Torres in Venezuela and urges an investigation into the possible involvement of state agents and the link to their journalistic activity.	Washington , D.C. August 26, 2020

Regional	Access to Internet and the Pandemic	R206/20	States of the Region must Accelerate Universal Internet Access Policies during the COVID-19 Pandemic and Adopt Differentiated Measures to Incorporate Groups in Vulnerable Situations	Washington , D.C. August 31st, 2020
Mexico	Violence against journalists	R225/20	Office of the Special Rapporteur condemns the murder of journalist Julio Valdivia in Mexico and reiterates concern on the persistence of attacks against the life and integrity of communicators	Washington , D.C. September 21st, 2020
Regional	N/A	Announcement	Office of the Special Rapporteur for Freedom of Expression presents a new fellowship program: Fundamental freedoms in the digital space	Washington , D.C. September 25, 2020
Regional	Reports	R235/20	On the International Day of Universal Access to Information, the Office of the Special Rapporteur for Freedom of Expression publishes a new thematic report: Right to Information and National Security.	Washington , D.C. September 28, 2020
Honduras	Violence against journalists	R242/20	Office of the Special Rapporteur condemns the murder of journalist Luis Alonso Almendares in Honduras and urges to investigate the relation to his journalistic work	Washington D.C. October 2, 2020
Nicaragua	Threats/ repression by legal means to Freedom of Expression	R246/20	The IACHR and its Office of the Special Rapporteur for Freedom of Expression express concern about new legal threats to freedom of expression and indirect measures against the media and journalists in	Washington D.C. October 7, 2020
Guatemala	Arbitrary detentions in pandemic	R258/20	The Office of the Special Rapporteur considers inadmissible the delay in the detention process of indigenous journalist Anastasia Mejía Triquis in a pandemic context and calls on the State of Guatemala to respect and guarantee her right to personal liberty and due process of law	Washington D.C. October 22, 2020

Mexico	Violence against journalists	R271/20	Office of the Special Rapporteur Expresses Extreme Concern about Violence against Journalists in Mexico and Calls on the State to Strengthen Protection Mechanisms and Measures to Combat Impunity	Washington D.C. November 11, 2020
Peru	Protests / Repression / Arbitrary detentions	R274/20	Office of the Special Rapporteur Expresses Grave Concern about the Excessive Use of Police Force against Demonstrators and Journalists and about Arrests during Protests in Peru	Washington D.C. November 13, 2020
Cuba	Violence against journalists / Arbitrary detentions	R280/20	The IACHR and its Office of the Special Rapporteur express grave concern over the increase in criminalization and harassment of activists, artists, and independent journalists in Cuba	Washington D.C. November 23, 2020

C. Funding

38. The Office of the Special Rapporteur would like to express very special thanks for the contributions it has received from OAS Member States, observer countries, and international cooperation agencies. In 2020, the Office of the Rapporteur calls attention to the projects that have been carried out satisfactorily thanks to the financial contributions made by the States of Costa Rica, Kingdom of the Netherlands, the United States of America, Uruguay, as well as the Swedish Agency for International Development Cooperation, the Swiss Confederation, Open Society Foundations, the National Endowment for Democracy (NED), Ford Foundation, and Google Inc. This funding has allowed the Office of the Special Rapporteur to fulfill its mandate and continue its work of promoting and defending the right to freedom of expression. Once the OAS has released the official figures on the resources received and executed by this office, they will be published in the audited financial statements available on the webpage of the organization.¹¹

¹¹ All the financial information is available for consultation at OAS web page, section [External Audit Reports](#): OAS Board of External Auditors. Report to the Permanent Council 2013. Annual Audit of Accounts and Financial Statements for the years ended December 31, 2013 and 2012. Section II. Specific funds. Pp 62-64; OAS Board of External Auditors. Report to the Permanent Council 2012. Annual Audit of Accounts and Financial Statements for the years ended December 31, 2012 and 2011. Section II. Specific funds. Pp 75-77; OAS Board of External Auditors. Report to the Permanent Council 2011. Annual Audit of Accounts and Financial Statements for the years ended December 31, 2011 and 2010. Section II. Specific funds. Pp 79-81; OAS Board of External Auditors. Report to the Permanent Council 2010. Annual Audit of Accounts and Financial Statements for the years ended December 31, 2010 and 2009. Section II. Specific funds. Pp 79-81; OAS Board of External Auditors. Report to the Permanent Council 2009. Annual Audit of Accounts and Financial Statements for the years ended December 31, 2009 and 2008. Section II. Specific funds. Pp 71-73; OAS Board of External Auditors. Report to the Permanent Council 2008. Annual Audit of Accounts and Financial Statements for the years ended December 31, 2008 and 2007. Section II. Specific funds. Pp 73-74; OAS Board of External Auditors. Report to the Permanent Council 2007. Annual Audit of Accounts and Financial Statements for the years ended December 31, 2007 and 2006. Section II. Specific funds. Pp 85-86; OAS Board of External Auditors. Report to the Permanent Council 2006. Annual Audit of Accounts and Financial Statements for the years ended December 31, 2006 and 2005. Section II. Specific funds. Pp 73; OAS Board of External Auditors. Report to the Permanent Council 2005. Annual Audit of Accounts and Financial Statements for the years ended December 31, 2005 and 2004. Section II. Specific funds. Pp 63-64; OAS Board of External Auditors. Report to the Permanent Council 2004. Annual Audit of Accounts and Financial Statements for the years ended December 31, 2004 and 2003. Section II. Specific funds. Pp 41-42; Board of External Auditors. General Secretariat OAS. Report to the Permanent Council 2003. Annual Audit of Accounts and Financial Statements for the years ended December 31, 2003 and 2002. Section II. Specific funds. Pp 41-42; OAS Board of External Auditors. Report to the Permanent Council 2002. Annual Audit of Accounts and Financial Statements for the years ended December 31, 2002 and 2001. Section II. Specific funds. Pp 53; OAS Board of External Auditors. Report to the Permanent Council 2001. Annual Audit of Accounts and Financial Statements for the years ended December 31, 2001 and 2000. Section II. Specific funds. Pp 52; OAS Board of External Auditors. Report to the Permanent Council 2000. Annual Audit of Accounts and Financial Statements December 31, 2000 and 1999. Section II. Specific funds. Annex 4. Page 4.

D. Staff

39. The Office of the Special Rapporteur has worked under the coordination of the Special Rapporteur, with a team of two or three lawyers who are experts in subjects related to freedom of expression, a journalist in charge of monitoring the situation of freedom of expression in the region, and a person who performs administrative assistance tasks. Since July of 2009, the Office of the Special Rapporteur has had a person in charge of managing projects and mobilizing resources. Any additional resources that have been obtained have served to provide greater stability and better working conditions for the members of this team. The Office of the Special Rapporteur has also benefited from the presence of interns who have been an essential part of the team. During 2020, in the capacity of interns Joselyn Rodríguez Lamas (Perú) and Galia Guajardo Góngora (México) collaborated in a constructive and enthusiastic manner to their work at the Office of the Special Rapporteur. In 2020, the Office of the Special Rapporteur has also counted on the participation of Fellow Paula Virginia Roko (Argentina) (Fellowship Orlando Sierra, 2020).

CHAPTER II: EVALUATION OF THE STATE OF FREEDOM OF EXPRESSION IN THE HEMISPHERE

1. This chapter describes some of the most important aspects of the situation of freedom of expression in the hemisphere during 2018. Its objective is to foster a constructive dialogue with the Member States of the OAS, calling attention to the reported advances as well as the problems and challenges that have required action during this year. The Office of the Special Rapporteur has confidence in the will of the OAS Member States to promote resolutely the right to freedom of expression and, to that end, publicizes their best practices, reports some serious problems observed, and offers viable and practical recommendations rooted in the Declaration of Principles.

2. As in previous annual reports, this chapter notes those aspects of the right to freedom of expression that most merit attention and that have been reported to the Office of the Special Rapporteur during the year. Following the methodology of previous annual reports, this chapter is based on information received by the Office of the Special Rapporteur from various States, intergovernmental and non-governmental sources. The Office of the Special Rapporteur takes particular interest in the information provided by States, presented during the hearings held by the IACHR, submitted by non-governmental organizations in the region and contained in alerts sent by media outlets and media workers. In all cases, the information is contrasted and verified. The Office presents only that information which it thinks will help the States identify worrisome problems or tendencies that could eventually cause irreparable effects if not addressed.

3. The information in this report is presented in an orderly and systematic manner that takes note of the advances, setbacks, and challenges regarding various aspects of the exercise of the right to freedom of expression. Thus, this chapter includes progress made in legal, administrative or legislative matters, as well as the most serious problems that arose throughout the year. The latter include murders, threats and attacks against journalists exercising their profession; subsequent findings of disproportionate liability; and progress toward as well as challenges to the right of access to information, among others.

4. The cases selected in each topic serve as examples in relation to the respect and exercise of freedom of expression. Sources are cited in all cases. In the majority of cases, the Office of the Special Rapporteur identifies the direct source, citing the address of the corresponding Web site. When the information is not published directly by the source, the report cites the date the Office of the Special Rapporteur received the information in its electronic mailbox. This report does not include information submitted to the Office of the Special Rapporteur through requests for precautionary measures, or other information which has not yet been made public.

5. In preparing this chapter of its 2018 Annual Report, the Office of the Special Rapporteur generally took into account information received until December 15, 2018. Information regarding incidents that occurred after the date the 2018 Annual Report went to press is available in the press release section of the websites of the Office of the Special Rapporteur (<http://www.oas.org/en/iachr/expression/index.asp>) and the IACHR (<http://www.oas.org/en/iachr/expression/index.asp>).

6. Finally, the Office of the Special Rapporteur acknowledges the collaboration of the OAS Member States and the civil society organizations that, following existing practice, contributed information about the situation of the exercise of freedom of expression in the hemisphere. As it does every year, the Office of the Special Rapporteur encourages the continuation of such practice, which are indispensable to the value of future reports.

ANTIGUA AND BARBUDA

7. Seditious libel continues to be a crime in Antigua and Barbuda, and journalists continue to be the target of lawsuits by public officials displeased by their investigations. The Office of the Special Rapporteur has observed accusations and disparagement from the Office of the Prime Minister toward critical journalists and media outlets.

A. Accusations against journalists, media, and political opponents

8. In 2020, media outlets were accused of publishing allegedly false information regarding the COVID-19 pandemic. In February, Prime Minister Gaston Browne asserted that the *Observer* newspaper “has proven to be an unreliable and very spiteful media organization, they are becoming extremely spiteful to the government trying to undermine everything we do,” alluding to a news report on its website about alleged coronavirus infections.¹² “It is extremely unfortunate that there are individuals who are seeking to score cheap political points out of what is clearly a serious risk factor that the government is trying to manage to protect the people of Antigua and Barbuda. This is no joking matter,” said the head of state.¹³

9. In addition, the ruling Antigua & Barbuda Labour Party (ABLP) reportedly accused the opposition United Progressive Party (UPP) and its agents of spreading false news about the government.¹⁴

10. The Office of the Special Rapporteur also learned that a journalist from *Observer Radio* was criticized by senior authorities for “asking awkward questions” at a press conference. “[T]here is a particular journalist from your organization who tries to ask awkward questions that really brings no value maybe to sound bright,” said the prime minister in an interview on *Observer Radio*. While he did not mention her by name, he reportedly identified journalist Gemma Handy by one of several questions she asked, directed mainly at Chief Medical Officer Dr. Rhonda Sealey Thomas. “[I]f it is that she is trying to distinguish herself as some form of superior intellect, the reality is that she cannot stand in the shoes of our health officials, people like Dr. Simon, Dr Rhonda Sealy Thomas, these are accomplished and very competent individuals.” The prime minister further dismissed as “utter nonsense” claims that COVID-19 figures were being hidden from the public.¹⁵

11. In September, the prime minister threatened to sue United Progressive Party (UPP) candidate Alister Thomas for defamation after he criticized the prime minister during an interview on *Observer Radio*. According to available information, the legal threat came on the same day that the UPP published a video with its complete list of candidates.¹⁶

12. The Prime Minister’s Office also publicly hinted that it would take legal action against a media outlet that “thoughtlessly” published a defamatory and politically motivated article about a Saudi Arabian official’s visit to the country. “The website speculated wildly about the motive and made other kinds of insulting conjecture that shamed the Saudis.”¹⁷

B. Progress

13. On March 4, the Government of Antigua and Barbuda ratified the Escazú Agreement on Access to Information, Public Participation, and Access to Justice in Environmental Matters in Latin America and the Caribbean and has since encouraged other Caribbean islands to move in the same direction.¹⁸

¹² Antigua Newsroom. February 2, 2020. [PM Lashes Out At Observer Over False Coronavirus Reporting](#).

¹³ Antigua Newsroom. February 2, 2020. [PM Lashes Out At Observer Over False Coronavirus Reporting](#).

¹⁴ Q95 FM Radio. March 20, 2018. [Antigua & Barbuda Labour Party accuses opposition UPP and its agents of circulating fake news about PM Gaston Browne](#).

¹⁵ Antigua Newsroom. June 29, 2020. [PM Says Journalist Asking Awkward Questions ‘To Sound Bright’](#).

¹⁶ Antigua Breaking News. September 22, 2020. [PM to sue political rival Alister Thomas for defamation](#); 286 Antigua Today. September 22, 2020. [PM to sue political rival Alister Thomas for defamation](#); Antigua Newsroom. September 22, 2020. [PM to sue political rival Alister Thomas for defamation](#).

¹⁷ Office of The Prime Minister Antigua and Barbuda / Facebook. [October 2, 2020](#); Antigua Newsroom. October 2, 2020. [Cabinet Takes Note Of Defamatory News Article On Website](#); Antigua Tribune. October 2, 2020. [Cabinet Takes Note Of Defamatory News Article On Website – Antigua News Room](#); Antigua Breaking News. October 2, 2020. [Cabinet takes note of ‘slanderous’ news article on website](#).

¹⁸ Environmental Awareness Group / Facebook. [17 de noviembre de 2020](#); Diálogo Chino. March 17, 2020. [Escazú Agreement gains momentum](#).

14. Given the events documented during 2020, the Office of the Special Rapporteur calls on the State of Antigua and Barbuda to pay particular attention to the following:

15. **Public authorities are called upon to maintain a discourse conducive to public deliberation and freedom of expression.** The Office of the Special Rapporteur reiterates that public servants have a duty to ensure that their speech does not infringe on the rights of those who contribute to public deliberation through the expression and dissemination of their thoughts—including journalists, the media, and human rights organizations—and must consider the context in which they express themselves. According to the Inter-American Court of Human Rights, these statements by public officials could constitute an indirect restriction on the right to freedom of expression.¹⁹

16. **Fear of criminal penalties discourages and inhibits citizens from expressing themselves on matters of public interest.** The Office of the Special Rapporteur recalls that Article 13.2 of the American Convention allows for restrictions to be placed on freedom of thought and expression through the imposition of subsequent liability for the abuse of this right. Although anyone who knowingly spreads false information resulting in harm may be subject to repercussions, this should be done through the exercise of the right of correction and reply or, if serious harm occurs, through proportionate civil liability. The Inter-American Court has also noted that criminal law is the most restrictive and severe means of establishing liability for unlawful conduct.

¹⁹ I/A Court H. R. [Case Ríos et al v. Venezuela. Preliminary Objections, Merits, Reparations and Costs](#). Judgment of January 28, 2009. Serie C No.194. Par. 139.

ARGENTINA

17. In the context of the pandemic, this Office observed with concern the massive surveillance activities on social networks carried out by the national security forces (colloquially called “cyber-patrolling”), which would have resulted in arrests and the opening of federal cases for the crime of public intimidation, for example, against people who published information about COVID-19 that differed from the official one.

18. On the other hand, the Office of the Special Rapporteur took note of the alleged illegal espionage activities against journalists, activists, academics, artists, businesspeople, and opposition leaders that took place during the previous administration of the national government. In this regard, it urges the State to carry out a thorough and independent investigation regarding these activities and those responsible. Likewise, the Office continued to monitor various attacks, threats, and intimidation of press workers, perpetrated both by individuals and by authorities and public officials.

19. The Office of the Special Rapporteur welcomes the decision adopted by the Supreme Court of Justice that reversed the conviction and rejected the lawsuit against the satirical magazine *Barcelona*. Citing inter-American standards, the judicial decision reinforces the constitutional protection of freedom of expression and the importance of this type of critical discourse in democratic societies.

A. Progress

20. On June 2, the Agency for Access to Public Information of Argentina (AAIP), in its capacity as the enforcement authority of Law No. 25.326 on Protection of Personal Data, dismissed a complaint from an individual against the media “La Voz del Interior S.A.”. The complaint originated from a note published in July 2019 on the “La Voz” portal titled “They caught ‘Las Superpoderosas’, two women accused of selling synthetic drugs” and that, according to the plaintiff, contained allegedly false information about herself. There, she was identified as a member of a criminal gang that was under her command and sold drugs, and explicitly mentioned her name, nationality, and age. By virtue of article 16 of the aforementioned law, the person requested the disassociation or deletion of her personal data, alleging that she had already been dismissed in said criminal case. In its decision, the AAIP reviews local constitutional jurisprudence and inter-American standards and concludes that eliminating the information as requested by the plaintiff would constitute a disproportionate restriction on freedom of expression, with even detrimental consequences for journalistic work and for the community in general. It is not in dispute that the investigation existed, said the AAIP, and that the information released was objectively true and is of general interest to the public.²⁰

21. Likewise, as this Office was able to learn, on June 11, Room III of the Federal Chamber of La Plata rejected a lawsuit by a university student against Facebook Argentina that requested that certain publications of a feminist group be removed from the platform for considering them insulting towards him.²¹ The plaintiff pointed out that these publications linked him to “a series of alleged sexist behaviors, psychological abuse, and manipulation” within the framework of a romantic relationship with a woman. The judges emphasized that the actor was not simply “a student” but “a social activist who actively supported feminist slogans”, as he defined himself, and therefore “an actor in university political life who has made public his commitment to certain ideas”. On the other hand, they pointed out that comprehensive legal protection for women also includes information, complaint, and protest activities that they carry out individually or collectively. Finally, the judgment highlights that the publications of claims by a group that promotes and defends the rights of women and dissident identities should be considered a constitutionally protected speech insofar as it is inserted in a matter of relevance or public interest and that refers to the performance or conduct of a public figure in relation to their public activity.

22. This Office welcomes some of the progress we observe in the different branches of the State with regard to internet access. Thus, for example, on June 8, the Court of First Instance in Administrative and Tax Litigation No. 2 of the City of Buenos Aires ordered a precautionary measure that obligates the City authorities to ensure internet access and affordability of computing devices for students of the Buenos Aires

²⁰ República Argentina, Poder Ejecutivo Nacional. June 2, 2020. [Resolución de la Agencia de Acceso a la Información Pública. RESOL-2020-124-APN-AAIP](#).

²¹ Poder Judicial de la Nación, Cámara Federal de La Plata. [“C. F. c/ Facebook Argentina SRL s/Hábeas Data”](#). June 11, 2020.

towns.²² In particular, the ruling mandates the government to “deliver to all male and female students who attend educational establishments of public management or private management with zero quota and who are in a situation of social vulnerability, an appropriate computing device (laptop , notebook or tablet) to access the internet and perform school tasks that guarantee their pedagogical continuity in virtual or remote mode”. In addition, it orders the installation "of technological equipment for wireless internet transmission (...) in sufficient quantity and location to provide a minimum standard of free wireless connectivity" in the villas, emergency neighborhoods and/or settlements of the City.

23. Additionally, in June a bill was presented in the Chamber of Representatives so that Internet access, in its fixed, mobile, and satellite broadband modalities, is considered a human right.²³ The initiative seeks to promote a National Connectivity Plan, the objective of which would be "to guarantee the maximization of geographic coverage, accessibility to the entire population, digital inclusion, and the affordability of essential service packages determined by the enforcement authority." This plan would contemplate the deployment of free access Wi-Fi points, of public or private management, that would operate in public offices and/or places of public interest. Finally, the project proposes that Internet Service Providers have an "inclusive plan of differentiated rates".

24. On August 21, 2020, the president issued a decree of necessity and urgency (DNU) where he declared the internet, pay TV, and cell phones as essential public services and decided to freeze their rates until December 31, 2020.²⁴ The DNU, which applies modifications to Law 27.078 on Information and Communication Technologies, understands that the right of access to the internet is currently one of the digital rights that every person possesses for the purpose of exercising and enjoying the right to freedom of expression; and that ICTs constitute a point of reference and a fundamental pillar for the construction of economic and social development.²⁵

25. On the other hand, the Office of the Rapporteur received with gratification the decision of the Supreme Court of Justice to revoke the conviction and reject Cecilia Pando's lawsuit against the renowned satirical magazine *Barcelona*.²⁶ In August 2010, Cecilia Pando, activist and president of the “Association of Relatives and Friends of Political Prisoners of Argentina” (a group created in defense of military and security forces personnel prosecuted for their participation in the last military dictatorship) civilly sued the media for considering that one of its covers had violated her rights to honor and image. The publication in question showed a photomontage with her face attached to the naked body of another woman, with ropes intertwined as chains, satirizing a public act that Cecilia Pando had organized along with other military relatives. The case reached the Supreme Court after the first and second judicial instance were favorable to Cecilia Pando, condemning the magazine to pay compensation (initially set at 40,000 Argentine pesos and later raised by the Civil Appeals Chamber to 70,000 Argentine pesos). In both cases, the judges understood that the media had exceeded the exercise of the right to freedom of expression, affecting the rights to the image and honor of Cecilia Pando. By revoking the sentence for damages against the media, the Court highlighted the public nature of both the contested publication and the person involved, who had actively participated in the debates around crimes against humanity committed during the last Argentine military dictatorship. Likewise, the Highest Court pointed out that the magazine *Barcelona* constituted "a graphic medium with satirical

²² Asociación Civil por la Igualdad y la Justicia (ACIJ). June 8, 2020. [Orden judicial: el GCBA deberá proveer internet en todas las villas y computadoras en préstamo a estudiantes en situación de vulnerabilidad](#); La Nación. June 8, 2020. [Cuarentena: la Justicia ordenó entregar computadoras y brindar Internet a los alumnos de las villas porteñas](#); Página 12. June 9, 2020. [Cuarentena: ordenan proveer Internet y computadoras a quienes estudian en las villas](#); Tiempo Argentino. June 8, 2020. [La Ciudad deberá dar internet a las villas y entregar computadoras a estudiantes que las necesiten](#).

²³ LM Diario. 12 de junio de 2020. [Impulsan un proyecto para que el acceso a Internet sea un derecho humano](#); En Redacción. June 14, 2020. [Proyecto de ley para que la conectividad a Internet sea un Derecho Humano y Servicio Universal](#); Radio Gráfica. June 16, 2020. [Impulsan una ley para que el acceso a Internet sea un derecho humano y servicio universal](#).

²⁴ Presidencia, Boletín Oficial de la República Argentina. [Decreto 690/2020](#). August 21, 2020.

²⁵ Infobae. August 21, 2020. [Argentina declara servicio público esencial a telefonía, internet y TV paga](#); Página 12. August 22, 2020. [El DNU que declara servicios esenciales a TV, Internet y celulares: tres claves](#); ANRed. August 22, 2020. [Declaran servicios públicos esenciales a la telefonía, la televisión paga e Internet](#); Deutsche Welle (DW). August 22, 2020. [Argentina: Internet, TV y telefonía son "servicios públicos y esenciales"](#).

²⁶ Página 12. December 22, 2020. [La corte falló a favor de la revista Barcelona tras una demanda de Cecilia Pando](#); Infobae. December 22, 2020. [La Corte Suprema ratificó el derecho a la libertad de expresión y revocó una condena contra la revista Barcelona](#). La Nación. December 22, 2020. [Libertad de expresión: la Corte Suprema revocó una condena contra la revista Barcelona en una demanda de Cecilia Pando](#).

characteristics (...) that tries to show a critical message of power" and that the cover in question "does not exceed the limits of the protection that the National Constitution it grants freedom of expression because it does not constitute a gratuitous insult or an unjustified humiliation".²⁷ In this regard, citing inter-American jurisprudence, it recalled that "[i]n the arena of debate on issues of high public interest, not only is the issuance of expressions that are harmless or well received by public opinion protected, but also that of those that shock, irritate, or disturb public officials or any sector of the population".²⁸

26. On the other hand, the Office positively values the decision adopted in December by the Third Chamber of the Chamber of Appeals in Civil and Commercial Matters of Salta, which, based on the standards of this Office, gave rise to an amparo writ and ordered the Municipality of the city of Salta to maintain the advertising adjudication for the journal *Cuarto Poder* and its web portal *Cuarto Poder Salta*.²⁹ According to the media in its letter, the municipal administration would have removed the advertising adjudication from the media in an "arbitrary and discriminatory way". The court pointed out that the State could not distribute official advertising in a discretionary manner without implying a curtailment of the media's freedom to inform. In their ruling, the judges held that if the State wants to withdraw advertising from any media, it can do so as long as it proves the impossibility of continuing to grant an adjudication to certain media and not to others, which in the case in question would not have been proven. "What cannot be justified in any way is that it is awarded following the 'friend-enemy' logic or the application of 'rewards and punishments,'" they said.³⁰ To base their decision, they also recalled that inter-American standards establish that decisions regarding official advertising must be based on criteria "substantially related" to the purpose described and that it must be neutral in relation to the media's points of view.

B. Attacks, threats, and intimidation against journalists and the media

27. According to publicly known information, the Municipality of the city of Villa La Angostura files a claim against Mariana Fernández, a journalist for *Diario Andino* of Villa La Angostura (Neuquén province), for "violently breaking into" the building to request access to municipal decrees.³¹ The Municipality staff asked the chronicler to leave because she was "bothering" people, and "impeded work in the area", warning her that "if she did not leave, they would call the police." After an exchange of words and intimidation by municipal staff and officials, the journalist left without being able to finish viewing the requested information. As stated by the media itself, the Municipality of Villa La Angostura "does not publish the decrees online, but rather they must be requested via the web or at the front desk. Only excerpts appear in the official gazettes, and the last published public access bulletin on the official website of the Municipality -at least until before this release- was October 2019".

28. This Office also learned of the death threat received by journalist Samuel Huerga from *Radio Cadena Noa* in the city of Orán (Salta province) in May. "You have to be killed, southpaw," a person told him through a phone call, from which the number could be identified.³² The journalist and teacher had repeatedly denounced the situation in which seasonal or "cyclical" workers are stranded in other provinces, and warned about the absence of the provincial government and the companies in the area of not generating genuine work. Also, in September, journalist Ariel Sayas, from *Canal Cuatro* of Posadas (Misiones province) received

²⁷ Corte Suprema de Justicia de la Nación. [Pando de Mercado, María Cecilia c/ Gente Grossa S.R.L. s/daños y perjuicio](#). December 22, 2020. Par 13, 19.

²⁸ Corte Suprema de Justicia de la Nación. [Pando de Mercado, María Cecilia c/ Gente Grossa S.R.L. s/daños y perjuicio](#). December 22, 2020. Par. 17.

²⁹ Palabras del Derecho. January 4, 2021. [Ordenan a la Municipalidad de la Ciudad de Salta a mantener la pauta publicitaria con dos medios de comunicación](#); El Expreso. January 4, 2021. [Ejemplar sentencia judicial contra Bettina Romero por intentar censurar a un medio](#); Noticias Iruya. January 4, 2021. [Un juez condena a la Municipalidad de Salta a mantener la publicidad oficial en los medios discriminados por Bettina Romero](#); Nuevo Diario. January 5, 2021. [Histórico fallo: Ordenan a la Municipalidad de Salta restituir la pauta oficial a un medio](#); Diario Judicial. January 5, 2021. [Pauta sin discriminación](#).

³⁰ Cámara de Apelaciones en lo Civil y Comercial. ["Borella, Ezequiel Maximiliano vs. Municipalidad de la ciudad de Salta. Amparo"](#). December 2020. Par. 2.

³¹ Diario Andino. April 17, 2020. [Grave intimidación del Ejecutivo Municipal a periodista de Diario Andino](#); Twitter account of Foro de Periodismo Argentino (@FOPEA). [April 17, 2020](#).

³² Twitter account of Samuel Huerga (@SamuelHuerga). [May 4, 2020](#); Página 12. May 6, 2020. [Amenazaron de muerte a un periodista de Orán](#); Diario Cuarto. May 5, 2020. [Orán / Amenazaron a un periodista por pedir el regreso de los trabajadores golondrina](#).

messages with death threats while he was conducting his program “Actualidad diaria”, after making an editorial in which he referred to the protest actions of provincial police in demand of salary improvements.³³

29. On May 7, municipal agents and police officers carried out an inspection of the home of journalist Emanuel Dumrauf, head of the *FM Clon* radio station and the *Info Villarino* portal in the town of Médanos, province of Buenos Aires.³⁴ According to the journalist, the visit to his home happened after he reported on the state of the city's streets and the many potholes. The Argentine Journalism Forum (FOPEA) demanded that the municipal government stop the harassment and reprisals against the media, which would also include the refusal to give interviews by officials and councilors, and citations from municipal authorities.³⁵

30. Likewise, the Office of the Special Rapporteur was informed of the alleged intimidation suffered by journalist Luciana Natalia Piris, owner of radio station 99.9 *FM Impacto* and the digital portal *Impacto Castex*, at the hands of different police and political officials from the town of Castex, province of La Pampa.³⁶ According to the reporter, Julio “Tato” González, a former Castex mayor and currently a provincial representative, allegedly told her that “they were very upset” because she “did not let the commissioner work.” She was later threatened by Commissioner David Bazan, who considered that her questions constituted “harassment” and warned her not to “interfere” because “other things could happen to her.” In turn, the communicator pointed out that they had cut the government advertising adjudication for her media by 50% as a result of an explicit order from representative Julio González “because it harmed his image,” as the media undersecretary allegedly acknowledged to the journalist.

31. This Office also learned of various physical attacks against journalists. This is the case, for example, of Luis Mancini, a journalist for *FM Horizonte*, in the town of Villa Río Bermejito, Chaco province, who was attacked while conducting his morning show.³⁷ While the journalist was in full broadcast of the radio program, two individuals violently entered the studio, stabbed him and beat him with chairs, and then fled, the events being recorded by the studio cameras. According to available information, in the previous days, Mancini had denounced alleged irregularities in the municipality related to public works and the collection of the Emergency Family Income, an economic aid bonus provided by the National Government in the framework of the health emergency. According to the medical report, the journalist, who was in intensive care, suffered head trauma, chest trauma, and pulmonary emphysema. The Investigation Prosecutor No. 2 of Juan José Castelli, Gerónimo Roggero, charged the former secretary of Public Works of the municipality, César Gavilán and his brother, who appeared in the videos of the radio security cameras. In addition, two other people were charged as accomplices.³⁸

32. Also, on August 25, the journalist Martín Ciccioli of the *El Trece* channel was physically and verbally attacked when he made a note about the reactivation of the fair in the town of Solano (province of Buenos Aires), after 5 months of inactivity due to the pandemic. The reporter was interviewing one of the vendors at

³³ Twitter account of Ariel Sayas (@ArielSayas). [September 3, 2020](#); Via País. September 3, 2020. [Criticó a policías de Misiones que protestaron con armas al cinto y lo amenazaron de muerte](#); Misiones para Todos. September 3, 2020. [Ariel Sayas denunció amenazas después de una columna de opinión](#); FOPEA. September 3, 2020. [FOPEA repudia las amenazas de muerte e intimidaciones recibidas por el periodista Ariel Sayas](#); Noticias del 6. September 3, 2020. [Periodista denunció amenazas después de una columna de opinión](#).

³⁴ Info Villarino / Facebook. [May 8, 2020](#); AN Digital. May 9, 2020. [¿Censura?: Acusan al intendente de Villarino de coaccionar a medios no afines](#); AN Digital. 18 de mayo de 2020. [Villarino: Concejales repudiaron inspección a FM local tras informe crítico al intendente](#); Info Villarino. May 18, 2020. [Bloque de concejales repudió el procedimiento padecido por Radio Clon](#).

³⁵ FOPEA. December 15, 2020. [FOPEA reclama al gobierno municipal de Villarino que cese el hostigamiento al portal Info Villarino](#).

³⁶ Página 12. November 29, 2020. [Una periodista no vidente denuncia haber sido amenazada en La Pampa](#); Fundación LED. November 30, 2020. [Amenazan a una periodista en Castex, Provincia de La Pampa](#); Impacto Castex. December 7, 2020. [FOPEA se suma al repudio por el hostigamiento y la violencia ejercida sobre la directora de estos medios](#).

³⁷ Chaco Día por Día. September 16, 2020. [Atacaron a golpes al periodista y dirigente del PJ de Villa Río Bermejito, Luis Mancini](#); Data Clave. September 17, 2020. [Atacaron a un periodista que denunció irregularidades con el IFE y corrupción en una municipalidad de Chaco](#); Perfil. September 18, 2020. [Agreden a periodista al aire tras denunciar por corrupción a funcionarios locales](#); FOPEA. September 17, 2020. [FOPEA repudia la brutal agresión física que sufrió el periodista chaqueño Luis Mancini](#); Infobae. September 18, 2020. [La interna política detrás de la agresión al periodista y dirigente chaqueño](#); Committee to Protect Journalists (CPJ). September 22, 2020. [Argentinian radio journalist Luis Alberto Mancini assaulted after reporting on local corruption](#).

³⁸ Diario Norte. September 19, 2020. [Son cuatro los detenidos por el ataque al periodista de Bermejito](#); Chaco Día por Día. September 21, 2020. [Brutal ataque contra el periodista de Bermejito: la fiscalía imputó a los agresores por tentativa de homicidio](#); Diario Tag. September 22, 2020. [Caso Mancini: los detenidos fueron imputados por “tentativa de homicidio”](#).

the fair when a citizen aggressively interrupted the conversation, pushing him and threatening to “break his head”.³⁹

33. In addition, during 2020 the Office of the Special Rapporteur documented several attacks on journalists covering protests in different cities. On July 9, a group of people broke an outdoor mobile of the C5N channel and physically attacked its journalists Lautaro Maislin and Claudio Cardozo, live and direct, while they covered “el Banderazo”, a demonstration in the Obelisk of the City of Buenos Aires against the National Government and within the framework of Independence Day.⁴⁰ According to the information available, the protesters began the attack when the journalists approached to ask them about the reasons for the mobilization, and they soon had to withdraw because their physical integrity was threatened.

34. On August 26 and 27, the chronicler Ezequiel Guazzora, who works for alternative popular communication media, was attacked by protesters outside the National Congress in the City of Buenos Aires, while covering a protest in rejection of the judicial reform promoted by the Government.⁴¹ According to the information received, on the first day the journalist had been verbally attacked and threatened with lynching; while on the second day a group of people pushed him, took him away and broke the phone with which he was transmitting the manifestation. When he tried to back away, he tripped over the cord and fell to the ground, so they started kicking him. Finally, the police intervened and the reporter was removed in an ambulance.

35. Likewise, on September 20, photojournalists Sebastián Granata and Marcelo Manera, from the *Télam* agency and the newspaper *La Nación* received death threats during a demonstration held in the city of Rosario (Santa Fe province) under various slogans contrary to the policies of the government of Alberto Fernández. According to the Rosario Press Union (SPR), a man rebuked the journalists, telling them: “You, the media, are all murderers. I know each one of you and you are on a list. I’m going to kill you”.⁴²

36. On September 21, the journalist Franco Cervera, from *FM 102.5 Radio Estación*, from the city of San Francisco (Córdoba province) was arbitrarily detained while he was carrying out a journalistic coverage in front of the Sixth Police Station in the city of Frontera, Santa Fe, where a group of neighbors asked for the release of a person. The journalist was also verbally assaulted, tussled, and then taken inside the police building where he was stripped of his work items.⁴³

37. On September 24, journalist Edgar Aguirre, from the *Más Contenidos* portal, was attacked while covering a demonstration in Resistencia (Chaco province), in front of the Government House building. According to available information, he was attacked by a group of people who answer to a political leader. In addition to insulting him and hitting him with kicks and fists, they stole the motorcycle he was riding on.⁴⁴

³⁹ El Trece. August 26, 2020. [Telenoche: Martín Ciccioli fue agredido por un vendedor de la feria de Solano](#); Fundamedios. August 27, 2020. [Periodista fue agredido en una feria de Buenos Aires, Argentina](#); A24. August 27, 2020. [Martín Ciccioli fue agredido en la feria de Solano: “Me vinieron a golpear”](#); Diario San Francisco. August 27, 2020. [Agredieron a Martín Ciccioli en la feria de Solano: «Vení que te rompo la cabeza, la con*** de tu madre»](#).

⁴⁰ La Nación. July 9, 2020. [Banderazo: agresión contra un móvil de C5N durante la manifestación en el Obelisco](#); Página 12. July 9, 2020. [Atacaron al móvil de C5N en la marcha anticuarentena: “¡Van a empezar a tener miedo, hijos de puta!”](#); Perfil. July 9, 2020. [Al grito de ladrones, manifestantes rompieron el móvil de C5N y atacaron a sus periodistas](#); Clarín. July 9, 2020. [Agresión a un móvil de periodistas de C5N en el banderazo del Obelisco contra el Gobierno](#).

⁴¹ Perfil. August 26, 2020. [Video: violenta agresión a periodistas en la marcha contra la reforma judicial](#); El Destape. August 26, 2020. [Manifestantes contra la reforma judicial golpearon a un periodista](#); MDZ Online. August 27, 2020. [Brutal ataque a un periodista en una movilización “por la República”](#); La Nación. August 28, 2020. [Reforma judicial: volvieron a agredir al periodista militante Ezequiel Guazzora](#); Fundamedios. August 28, 2020. [Periodista fue agredido dos días seguidos por manifestantes en Buenos Aires](#).

⁴² El Tribuno. September 20, 2020. [Otra vez la prensa es agredida durante las protestas contra el Gobierno](#); Redacción Rosario. September 19, 2020. [Amenazan a reporteros gráficos en la marcha opositora: “Los voy a matar”](#); Aire Digital. September 20, 2020. [Amenazan a fotógrafos de prensa durante una protesta en Rosario](#); Telam. September 20, 2020. [Amenazaron a fotógrafos de Télam y La Nación durante una protesta contra el Gobierno](#).

⁴³ La Radio 102.9. September 22, 2020. [Detienen a periodista de San Francisco, mientras realizaba una cobertura en Frontera](#); El Departamental. September 22, 2020. [Privaron de la libertad a periodista mientras trabajaba](#); El Periódico. September 22, 2020. [Detienen a periodista local mientras realizaba una cobertura en Frontera](#); Voces del Sur. September 23, 2020. [Expresamos nuestro repudio y preocupación por la detención del periodista Franco Cervera de Córdoba, Argentina](#).

⁴⁴ Diario Chaco. September 24, 2020. [Manifestantes golpearon y le robaron a un trabajador de prensa en la protesta de Casa de Gobierno](#); DNI Chaco. September 24, 2020. [Cobarde agresión de piqueteros a un periodista en Resistencia](#); FOPEA. September 29, 2020. [FOPEA se solidariza con el periodista chaqueño Edgar Aguirre](#).

38. On December 18, the Office of the Special Rapporteur documented acts of violence against press workers during a protest in the province of Mendoza in rejection of the femicide of an adolescent. According to available information, in the framework of a demonstration that turned violent and culminated in incidents, the photojournalists Marcelo Aguilar (*La Nación*), Fernando Martínez (*Diario Uno*), and Mariana Villa (*Los Andes*), and the camerawoman María Inés Aimale (*Todo Noticias* and *Canal 13*) were verbally harassed and physically attacked during the coverage of the mobilization, and some protesters even stripped them of their work equipment with the intention of obstructing coverage of the events.⁴⁵

39. On the other hand, the Office of the Special Rapporteur took note of the criminal complaint filed by the lawyer Alfredo Falú against the journalist Irene Benito of *La Gaceta de Tucumán* for the alleged commission of the crimes of fraudulent administration, attack on authority, and coercion, after publishing of a series of articles and columns in which she exposed and questioned the operation of the Criminal Justice in Tucumán in cases of public interest, and the relationship between the local political power and a sector of the local courts.⁴⁶ The communicator warned that the complaint "is an attack on freedom of the press" and that "its real intention is for the press to keep silent when acts of corruption are presented in which public officials are implicated".⁴⁷ For its part, the Argentine Journalism Forum (FOPEA) repudiated "the judicial harassment and the harassment campaign" to which Irene Benito was subjected for her investigations, and that "only seeks to criminalize professional journalism and curtail the coverage of incidents of public significance in that province".⁴⁸

C. Stigmatizing statements

40. The Office of the Special Rapporteur registered with concern the dissemination of a video by Vice President Cristina Fernández de Kirchner in which images of journalists who have investigated alleged acts of corruption were displayed, such as Daniel Santoro, Jorge Lanata, Luis Majul, and Nicolás Wiñaski, among other generic images of newspaper stacks. These graphic pieces were accompanied by off-screen messages from the Deputy Head of State, in which she blamed "the coverage of the hegemonic media" of "political complicity" with the previous government and its alleged espionage activities.⁴⁹ For the Argentine Journalism Forum (FOPEA), this type of action "only reinforces a stigmatization that puts the safety of these professionals at risk" and constitutes a "setback in the construction of democracy".⁵⁰

41. This Office also observed with concern a series of statements by President Alberto Fernández against journalists who report on matters of public interest such as citizen security, corruption, pension and retirement systems, and the management of the pandemic in relation to the purchase and distribution of vaccines. On November 18, during a live interview, the *A24* journalist, Javier Díaz, asked the president about the alleged insecurity in Argentina, mentioning his own "feeling of fear" when walking in the streets. "About your feelings, the only thing I can recommend is that you talk to a psychologist, that exceeds me," the president replied.⁵¹ Likewise, on December 31, in the framework of an interview with the journalist Gustavo Sylvestre from *Radio 10*, the head of state said that a "crazy journalism" existed in the country, which "responds to interests" and that certain journalists "need therapists to get rid of the hatred they carry", supposedly in reference to those who have been critical of the government's management of the pandemic

⁴⁵ MTN digital. December 18, 2020. [Violentos incidentes en la marcha por la muerte de Florencia Romano](#); FOPEA. December 22, 2020. [FOPEA repudia la violencia contra periodistas, camarógrafos y fotógrafos durante una protesta que tuvo lugar el viernes 18 en Mendoza por el femicidio de Florencia Romano](#); Cuyo Noticias. December 22, 2020. [Repudio del Sindicato de Prensa por agresiones a periodistas en la marcha por Florencia](#); Memo. December 23, 2020. [El Sindicato de Prensa reclamó por la ausencia policial en la marcha por Florencia](#).

⁴⁶ La Gaceta de Tucumán. December 6, 2020. [Una denuncia penal pone en riesgo la libertad de prensa](#); El Tucumano. December 6, 2020. ["Contra la libertad de prensa": denuncian a una periodista tucumana](#); Contexto. December 6, 2020. [Denuncia penal a periodista pone en riesgo la libertad de prensa en Tucumán](#); Radio Cut. December 11, 2020. [Irene Benito advierte que le adjudican delitos falsos por ejercer un periodismo crítico en Tucumán](#).

⁴⁷ El Tucumano. December 6, 2020. ["Contra la libertad de prensa": denuncian a una periodista tucumana](#)

⁴⁸ FOPEA. December 7, 2020. [FOPEA se solidariza con la periodista de La Gaceta de Tucumán Irene Benito](#).

⁴⁹ Clarín. June 11, 2020. [Cristina Kirchner acusó al macrismo de ser una "asociación ilícita" y mostró imágenes de periodistas "cómplices"](#); La Nación. June 12, 2020. [Cristina Kirchner volvió a encender la hoguera contra los periodistas](#).

⁵⁰ Twitter account of Foro de Periodismo Argentino (@FOPEA). June 13, 2020; Clarín. June 13, 2020. [FOPEA advirtió por los mensajes "estigmatizantes" de Cristina contra periodistas que investigan casos de corrupción](#); El Intransigente. June 14, 2020. [«Estigmatizante»: FOPEA criticó a Cristina Fernández de Kirchner por sus videos contra periodistas](#).

⁵¹ Perfil. November 18, 2020. [Alberto Fernández mandó al psicólogo a un periodista que le preguntó por la inseguridad](#); La Voz. November 18, 2020. [Le preguntó sobre la inseguridad y Alberto Fernández mandó al periodista "al psicólogo"](#); La Nación. November 19, 2020. [La polémica respuesta de Alberto Fernández a un periodista sobre la inseguridad: "Vaya al psicólogo"](#).

and the authorization of the Sputnik V vaccine against the coronavirus. "What is needed is for these journalists to be treated by a psychiatrist and make them understand that they live in a community that needs them to please stop dividing us," said Alberto Fernández, who also affirmed that the way in which certain journalists exercise their profession "should be seriously rethought" since "the only thing it does is provoke discouragement towards Argentines because of the hatred they have for Cristina, Peronism, me, and they say things that really don't make sense".⁵²

D. Communication surveillance

42. During 2020, the Office of the Special Rapporteur became aware of a series of court cases that linked former officials from the previous government administration with alleged surveillance activities against journalists, human rights defenders, academics, and opposition political leaders. In June 2020, the inspector of the Federal Intelligence Agency (AFI) denounced the previous authorities of the agency for the "production of illegal intelligence" to the detriment of approximately 500 people who participated in the Interministerial Conference of the World Trade Organization (WTO) and the G-20, held in Buenos Aires in 2017 and 2018 respectively.⁵³ The list contained the names of 403 journalists from local media and foreign correspondents who were accredited to cover these international events held in Buenos Aires.⁵⁴ According to publicly known information, personal files were found labeled with red, yellow, and green colors that represented the political orientation of each one and their affinity with the government. In addition, a photo, and a profile of each were included, based on what they published on their social media accounts. The case was sent to the Federal Criminal and Correctional Court No. 11.⁵⁵

43. Likewise, there is another judicial process underway for "violation of correspondence" and "violation of the computer system" against 87 people, among them journalists, political leaders, and human rights organizations⁵⁶, which would link high-ranking officials of the previous government.⁵⁷ In this case, the investigation was promoted by a federal prosecutor and sent to Federal Court No. 8.⁵⁸

44. On the other hand, the Federal Justice investigates an alleged illegal espionage network against politicians and journalists who had developed organic and inorganic agents of the AFI in previous years, among whose victims would be the investigative journalist and deputy secretary of the newspaper *La Nación*, Hugo Alconada Mon.⁵⁹ According to the available information, the alleged intelligence tasks against the journalist included personal monitoring and monitoring of his closest family environment. According to the record, they had moved to the city of La Plata, where they photographed the house where he lives with his family, as well as the home of his parents, and they inquired about the vehicle in which he rides. On June 18, a former agent of the Federal Intelligence Agency admitted before a Bicameral Commission of the National Congress that "he carried out or learned of illegal espionage tasks" against politicians and journalists by order of the head of the agency's Special Operations area, Alan Ruiz, during the government of Mauricio Macri.⁶⁰ In that statement, the former agent also indicated that he had been asked to focus especially on the follow-up of

⁵² Gobierno de Argentina, Presidencia. December 31, 2020. [Entrevista al Presidente de la Nación, Alberto Fernández, en Radio 10](#); Mdz Online. December 31, 2020. [Enfurecido: Alberto Fernández mandó a los periodistas al psiquiatra](#); Infobae. December 31, 2020. [Periodistas al psiquiatra, críticas a la Corte y una respuesta a Carrió: las frases destacadas de un encendido reportaje de Alberto Fernández](#); Cronista. December 31, 2020. [Alberto: periodistas al psiquiatra, crítica a la Corte y nuevo impulso a la reforma judicial](#).

⁵³ La Nación. June 5, 2020. [Acusan a Arribas de haber hecho fichas ideológicas de 400 periodistas que participaron del G-20 y la cumbre de la OMC](#); Ámbito Financiero. June 5, 2020. [AFI denunció espionaje a 500 periodistas, empresarios y organizaciones sociales y políticas](#); Perfil. 6 de junio de 2020. [Académicos, empresarios y la izquierda vigilados a través de datos y bienes personales](#); Página 12. June 7, 2020. [Espionaje ilegal: las fichas de la AFI de Macri y Bullrich sobre periodistas y empresarios](#); La Nación. June 7, 2020. [Denuncia del Gobierno. La AFI rotulaba a los periodistas con un semáforo ideológico](#).

⁵⁴ Committee to Protect Journalists (CPJ). June 16, 2020. [Audit finds that Argentine intelligence services compiled files on hundreds of journalists](#).

⁵⁵ Página 12. June 9, 2020. [La AFI presentó las pruebas del espionaje ilegal a la Justicia](#).

⁵⁶ La Nación. May 26, 2020. [La AFI denunció espionaje ilegal durante el gobierno de Mauricio Macri y entregó un listado de presuntas víctimas](#).

⁵⁷ Deutsche Welle (DW). May 29, 2020. [Argentina: imputan a Mauricio Macri por espionaje interno](#); Página 12. May 30, 2020. [Macri fue imputado en la investigación por el espionaje ilegal de la AFI durante su gobierno](#).

⁵⁸ Infobae. May 29, 2020. [El fiscal Di Lello aceptó investigar la denuncia de la AFI sobre el espionaje a políticos y periodistas](#); Clarín. June 2, 2020. [El juez Martínez De Giorgi ordenó una pericia en la causa contra Macri por la denuncia de espionaje ilegal](#).

⁵⁹ La Nación. June 15, 2020. [Hugo Alconada Mon declaró como víctima del presunto espionaje ilegal](#); Ambito. June 15, 2020. [Espionaje ilegal M: el periodista Hugo Alconada Mon se presentó en los tribunales de Lomas de Zamora](#); Committee to Protect Journalists (CPJ). June 18, 2020. [Argentine intelligence services surveilled journalist Hugo Alconada Mon under Macri administration](#).

⁶⁰ La Nación. June 19, 2020. [Un exagente de la AFI admitió en el Congreso seguimientos a periodistas](#).

Hugo Alconada Mon, whom they referred to as “Anaconda”. At the time of the espionage, Alconada Mon was working on an investigation into the Argentine chapter of the Lava Jato case, “an investigation that bothered political and business power,” according to the journalist, in addition to other issues of high public interest, such as the financing of the political campaign of the Cambiemos alliance in 2015. According to publicly known information, among the WhatsApp messages that the Justice would have recovered is that of one of the intelligence agents, who pointed out that Hugo Alconada Mon was “fully on the issue of Brazil” so they had to deepen “their follow-up and source[s]” and extend it to his “collaborators”.⁶¹

45. It was reported to this Office that this type of intelligence activities could be related to the so-called “lawfare”, a concept that refers to the abusive use of legal tools, such as the combination of the judiciary, the media, and actors of political and economic power, to manipulate public opinion and provoke repudiation against certain political figures.⁶²

46. On the other hand, the Office of the Special Rapporteur learned that on May 31, the Ministry of National Security approved the “General Protocol for the police prevention of crime with the use of open digital sources”, publicly known as the “cyber-patrolling” protocol.⁶³ During a videoconference with congress representatives in April, the Minister of Security had indicated that the security forces carry out cyber-patrols “to measure social humor”, which aroused significant criticism from different actors.⁶⁴ Finally, the minister made a first draft of the text available to civil society organizations to receive contributions and criticism, which focused mainly on its ambiguous terms and the margin of discretion granted to those in charge of applying it.⁶⁵ Part of the recommendations were effectively taken into account in the final text, although some of the main suggestions were not incorporated. On June 11, the representative of the Attorney General presented the first test measures, among which are requests for information from the AFI and the Ministry of National Security. In addition, she asked for the two agents who were ordered to carry out these tasks to declare.

47. The Access to Public Information Agency, in its capacity as Control Authority of Law No. 25.326 on Protection of Personal Data, was summoned to participate in the first meeting of the Advisory Board for the evaluation and monitoring of the Protocol. On July 23, it issued a communication stating that “in order to comply with current regulations on the protection of the human right to privacy, the Protocol should be reviewed,” suggesting that the Ministry of Security “evaluate the suspension of the application of the Protocol until its adaptation to the current regulations on the protection of personal data is reviewed again”.⁶⁶

48. The Office of the Rapporteur notes with concern the approval by the legislature of the Autonomous City of Buenos Aires of a facial recognition system, which provides for the installation of video surveillance systems by the City authorities.⁶⁷ The approved norm modifies Law 5688 of the Comprehensive Public Security System, which regulates the security policies of criminal prosecution, among which is the system of video surveillance cameras in public spaces. Despite the warning from various civil society organizations, the

⁶¹ The New York Times. June 30, 2020. [Las lecciones que aprendí del año que me espiaron](#).

⁶² International Federation of Journalists (IFJ). July 3, 2020. [Argentina: lawfare y espionaje a periodistas, dos caras de una misma amenaza contra la democracia](#); Página 12. July 4, 2020. [Poder Judicial, periodismo y espionaje: el coctel PRO](#); Tiempo Argentino. October 18, 2020. [Las actas de la AFI, una verdadera bitácora del lawfare en Argentina](#).

⁶³ Boletín Oficial de la República Argentina. Ministerio de Seguridad. May 31, 2020. [Resolución 144/2020](#); Infobae. June 4, 2020. [El Ministerio de Seguridad anunció de forma oficial el nuevo protocolo de “ciberpatrullaje preventivo”](#); ANRed. June 4, 2020. [El gobierno aprueba un polémico protocolo de vigilancia policial en internet por la pandemia](#); Diario Judicial. June 2, 2020. [Ciberpatrullaje: entre la inteligencia y la prevención](#); El Litoral. June 2, 2020. [Publican el protocolo del polémico “ciberpatrullaje”](#).

⁶⁴ Perfil. April 8, 2020. [Frederic habló de “ciberpatrullaje para medir humor social” y desató otra polémica](#); La Nación. April 8, 2020. [Sabina Frederic reveló que las fuerzas de seguridad realizan “ciberpatrullajes” en las redes sociales para medir el humor social](#); Infobae. April 8, 2020. [Polémica revelación: la ministra de Seguridad admitió que las fuerzas a su cargo realizan ciberpatrullaje en redes sociales para “detectar el humor social”](#); Clarín. April 9, 2020. [Coronavirus en Argentina: Sabina Frederic defendió el “ciberpatrullaje” y admitió que hablar de “humor social fue poco feliz”](#).

⁶⁵ Among those who provided feedback were [Fundación Vía Libre](#), [Instituto Latinoamericano de Seguridad y Democracia \(ILSED\)](#) and [Centro de Estudios Legales y Sociales \(CELS\)](#).

⁶⁶ República Argentina, Poder Ejecutivo Nacional. July 23, 2020. [Respuesta a Nota NO-2020-41096462-APN-UGA-MSG - Mesa Consultiva para la evaluación y seguimiento del Protocolo General para la Prevención Policial del Delito con uso de Fuentes Digitales Abiertas](#); Fundación Vía Libre. August 11, 2020. [La Autoridad de Protección de Datos Personales recomienda suspender la práctica de ‘Ciberpatrullaje’](#).

⁶⁷ La Política Online. October 22, 2020. [La ciudad aprueba las polémicas cámaras de reconocimiento facial](#); Télam. October 22, 2020. [La Legislatura aprobó el uso de reconocimiento facial para la detención de prófugos](#); Fundación Vía Libre. October 23, 2020. [La legislatura de CABA aprobó la regulación del Reconocimiento Facial](#).

initiative was approved without being debated in the Human Rights and Guarantees Commission, as they had requested.⁶⁸

E. Freedom of expression and COVID-19

49. In April, the Federal Justice initiated a case against Kevin Guerra, a 21-year-old who, after learning that he would not be granted the government financial aid bonus (Emergency Family Income or “IFE”), published in his account from Twitter: “Che what's up for those of us who don't collect the 10 thousand pesos bonus, the looting still stands, right?”, supposedly alluding to a “meme” that had gone viral on social networks in Argentina.⁶⁹ The sub-directorate of Investigation of Technological Crimes of the National Gendarmerie would have captured the post of the young man, generating an “early warning” and a criminal complaint against the young man, based on Resolution 31/2018 that enabled the body to search for information in open digital sources to investigate some crimes, such as the sale of weapons or the sexual exploitation of children. According to the information available, in the framework of the pandemic, the Gendarmerie would have configured searches under the terms “loot / quarantine / Argentina” for which it understood the post could constitute a crime. The Balcarce provincial prosecutor agreed with the criterion of seriousness, understanding that “national security was compromised, which justifies the intervention of the exceptional jurisdiction,” and ordered the instruction of a federal criminal proceeding against Kevin Guerra for the crime of public intimidation, which provides for a penalty of two to six years in prison. The Center for Legal and Social Studies (CELS) assumed the defense of Kevin Guerra, requested the declaration of nullity, and requested the dismissal due to the absence of a crime. Finally, Federal Court No. 3 of Mar del Plata dismissed the case for lack of a crime.⁷⁰

50. The Office of the Special Rapporteur also observed that several people were detained and, in some cases, criminalized for publishing supposedly false expressions on social networks. Thus, for example, on March 31, a young man was arrested in Posadas (Misiones province) by the Cybercrime Division of the Misiones Police for publishing false news on his social networks and thus “generating fear and social alarm”.⁷¹ The Office of the Special Rapporteur also registered a similar arrest in the same city on September 26 of a man who allegedly spread false information about Covid-19 through WhatsApp audios.⁷²

51. Likewise, on June 19, the journalist Ariel Barrios was notified of a resolution by which the mayor of the city of Pichanal (Salta province) fined him \$40 thousand pesos for the alleged dissemination of false information related to cases of coronavirus in the city.⁷³ The communal chief relied on a municipal ordinance that he himself had promoted last March, with the aim of combating misinformation in the context of a health emergency. The norm established in its 4th article a fine of up to \$20 thousand Argentine pesos “for those who distribute, share, circulate, generate by any media or means of communication, whether oral, written, television, radio, telephone, or any other computer channel whatever whether the technological means, device, or use of written distribution, false information regarding the COVID-19 virus, and the same measure will be applied to those who alter an official publication”. The journalist's posts would have been about the confirmation of new cases of COVID-19 and about police controls in a neighborhood of the city. According to

⁶⁸ ANRed. September 18, 2020. [CABA: la Legislatura porteña debate un polémico proyecto sobre tecnologías de reconocimiento facial](#); CELS. October 21, 2020. [La legislatura porteña debe rechazar el uso de la tecnología de reconocimiento facial para la vigilancia del espacio público](#); Pura Ciudad. October 22, 2020. [Ciudad cambia el Sistema de Reconocimiento Facial, con críticas de organizaciones civiles](#); Télam. October 22, 2020. [Organizaciones Civiles criticaron la nueva ley porteña de reconocimiento facial](#); Nueva Ciudad. October 23, 2020. [Organizaciones de derechos civiles criticaron la nueva ley de reconocimiento facial](#);

⁶⁹ Clarín. April 14, 2020. [“Sigue en pie lo del saqueo, no?”, el tuit que le valió una causa judicial a un joven de Balcarce](#); Agencia Paco Urondo. April 14, 2020. [Iniciaron una causa judicial a un joven por un tuit](#); Tiempo Argentino. April 15, 2020. [Le iniciaron una causa por un chiste en Twitter: “Fue una broma, no es nada real”](#); El Destape. April 15, 2020. [Ciberpatrullaje: el joven al que se le inició una causa por un tuit dijo que “fue una broma”](#).

⁷⁰ CELS. January 14, 2020. [La justicia federal sobreseyó a Kevin Guerra por sus expresiones en twitter](#).

⁷¹ La Nación. March 31, 2020. [Coronavirus: detienen al ex Gran Hermano Matías Schrank por difundir noticias falsas](#); MDZ Online. March 31, 2020. [Detienen a un ex Gran Hermano por difundir fake news sobre coronavirus](#); Mejor Informado. March 31, 2020. [Coronavirus: Detienen a un ex Gran Hermano por dar noticias falsas](#).

⁷² El Territorio. September 27, 2020. [Un hombre detenido por difundir audios con “fake news” sobre el Covid-19 en Posadas](#); Misiones Online. September 27, 2020. [Detienen en Posadas a un hombre, por difundir audios con «fake news» sobre el coronavirus](#); Revista Códigos. September 27, 2020. [Detuvieron a un hombre por difundir audios con “fake news” sobre el coronavirus en Posadas](#).

⁷³ Página 12. June 23, 2020. [El intendente de Pichanal multó a un comunicador](#); Clarín. June 24, 2020. [Salta: un intendente multó con \\$40 mil a un periodista por reportar casos de coronavirus en su ciudad](#); TN.com. June 24, 2020. [Coronavirus en Salta | El intendente que multó a un periodista por informar un caso: “No atentamos contra la libertad de prensa”](#).

publicly known information, a few days after the case had media coverage, the City Deliberative Council retroactively repealed the ordinance in question, thus rendering the fine ineffective.

52. On June 23, members of the National Gendarmerie showed up at the home of journalist Gustavo Romero in the city of Roque Sáenz Peña (province of Chaco) and drew up a record of infraction against him for alleged violation of Article 211 of the Criminal Code of the Nation, which punishes with imprisonment from two to six years anyone who "makes signals, voices alarm, threatens to commit a crime of common danger, or uses other material means" to instill public fear or provoke riots or disorders.⁷⁴ The event occurred after the journalist reported through his personal Facebook account about new cases of coronavirus, publishing a number of infected individuals that differed with the official figures.

53. On July 30, the Government of Tucumán through the Secretariat of Public Communication indicated that due to the increase in the circulation of false news on social networks, the Ministry of Security together with the Police of the province would take measures to investigate and eventually accuse those responsible with a crime of public intimidation. "These types of actions generate great discomfort and fear in society (...). We constantly monitor the circulation of information and when we are faced with such cases, the Office of the Prosecutor for Complex Crimes on Duty intervenes and investigates who is behind this, in order to request measures against them and for them to be charged in a criminal case," said the Head of the Telematic Crimes Division, Héctor Marín.⁷⁵ Along these lines, on August 6, the provincial Legislature enacted Law 9.290, which modifies the Law on Police Contraventions and imposes penalties of up to 10 days of arrest and fines equivalent to one minimum, vital, and mobile salary to those who "spread, propagate, or disclose through social networks news that are totally or partially false, provided that the act does not constitute a crime and without prejudice to the civil or criminal liability that may correspond to it". The norm establishes that it will be a misdemeanor judge who will order the penalties.⁷⁶

54. In October, this Office received information about the launch of the "Nodio" Observatory by the Public Defender of Audiovisual Communication Services of the Nation. It is an observatory on disinformation and symbolic violence in media and digital platforms that "will work on the detection, verification, identification, and dismantling of the argumentative strategies of malicious news and the identification of their dissemination operations," according to an official statement.⁷⁷ As the Office of the Rapporteur learned, the initiative was criticized by the opposition and organizations linked to freedom of expression and the press⁷⁸, who pointed out that actions to monitor and "dismantle" certain speeches as proposed could lead to discipline, indirect censorship, persecution, and criminalization of expression.

F. Internet and freedom of expression

55. The Office of the Special Rapporteur learned of a judicial ruling framed in the discussion on the "right to be forgotten" in Argentina.⁷⁹ On August 11, Chamber H of the National Chamber of Civil Appeals confirmed the first instance ruling in the case "Natalia Denegri v. Google", and ordered Google to de-index images, videos, and content linked to the words "Natalia Denegri", "Natalia Ruth Denegri" or "Natalia Denegri in the

⁷⁴ Periodismo y Punto. June 24, 2020. Ciberpatrullaje. [Ciberpatrullaje. Un periodista de Chaco posteó que habría más casos de Covid-19 y le mandaron a la Gendarmería](#); Fundación LED. June 24, 2020. [Continúan las acciones de ciberpatrullaje sobre la prensa](#); Clarín. June 25, 2020. [Coronavirus. Denuncian un nuevo ataque del ciberpatrullaje oficial contra la libertad de expresión](#).

⁷⁵ Gobierno de Tucumán, Secretaría de Estado de Comunicación Pública. July 30, 2020. [Quiénes difunden 'fake news' pueden ir a prisión](#).

⁷⁶ La Gaceta Salta. August 7, 2020. [En Tucumán aprobaron una ley para castigar a quienes difundan "fake news"](#); Tucumán Noticias. August 7, 2020. [Difundir noticias falsas será penado con hasta 30 días de arresto](#); Vía País. August 8, 2020. [Sancionarán con arresto o multa a quienes difundan noticias falsas](#); La Gaceta. August 26, 2020. [Multas y arresto: Manzur puso en vigencia la ley contra las "fake-news"](#).

⁷⁷ Defensoría del Público de la Nación. October 12, 2020. [NODIO: una iniciativa de la Defensoría para fortalecer la pluralidad de voces](#); Infobae. October 11, 2020. [El kirchnerismo creó un organismo para supervisar qué noticias se publican en los medios de comunicación](#); A24. October 12, 2020. ["Nodio": crean un organismo para supervisar qué es lo que publican los medios](#).

⁷⁸ Perfil. October 11, 2020. [Nodio, el "observatorio de la desinformación", genera rechazo de Adepa y la oposición](#); Adepa. October 11, 2020. [Monitorear el pensamiento no favorece la libertad de expresión](#); FOPEA. October 13, 2020. [FOPEA rechaza la creación del observatorio estatal "NODIO"](#); Infobae. October 13, 2020. [La SIP también rechazó la creación de NODIO, el organismo estatal que vigilará qué noticias se publican](#); La Nación. October 13, 2020. ["Nodio": preocupación en la oposición por una iniciativa del Gobierno para monitorear la información](#); La Voz. October 13, 2020. [Amplio rechazo a Nodio, el Observatorio de la Desinformación](#).

⁷⁹ TN.com. August 12, 2020. [La Justicia falló en contra de Google: aplicó el "derecho al olvido" en una demanda de Natalia Denegri](#); La Nación. August 12, 2020. [Caso Natalia Denegri: por primera vez en la Argentina, la Justicia aplicó el "derecho al olvido" en una demanda contra Google](#); Página 12. August 13, 2020. [Derecho al olvido: Polémica sobre el fallo de la desindexación](#).

Cóppola case” and “any eventual image or video, obtained twenty years or more ago”.⁸⁰ Denegri had requested that the “right to be forgotten” be applied urgently to her and stated that, although she was the protagonist of this fact that in 1996 it received high media attention, more than twenty years later the information continues to appear in the search results that causes her harm. She pointed out that such information “belongs to a past that she wishes to forget” and that “it is old, irrelevant, unnecessary, and obsolete, without any informational and journalistic importance.” However, as in the first instance, the judges understood that there is content that must remain due to the public relevance that the Cópola case had and still has. In this sense, they decided to maintain the links related to the “Cópola case”, considering that “these are events of public interest that led to the conviction of a former federal judge. It would not do well to remove this news from the search engines.”

56. On the other hand, according to available information, in October the Federal Chamber of Mendoza revoked a precautionary measure that ordered Google and Yahoo to de-index and block certain URLs linked to events of public interest, and considered that the opposite implied “an act of censorship that interrupts the communicational process because, by preventing access to said information, prevents the realization of the act of communication or at least, given the importance of Google as a search engine, makes it extremely difficult”.⁸¹ The search results that were intended to be de-indexed and blocked referred to a criminal complaint for the alleged granting of a subsidy of 80 million pesos by the government of Alberto Rodríguez Saá in the province of San Luis to a foundation chaired by the wife of his brother, who at that time was serving as a national senator.

G. Subsequent liabilities

57. On August 13, the justice of the province of San Luis sentenced journalist Diego Masci to pay a fine of \$90,000 for “violation of privacy due to the improper publication of an electronic communication”, provided for in article 155 of the Penal Code, in detriment of a public official.⁸² In 2018, the journalist had published a video of the then provincial Minister of Education (and current provincial Minister of the Environment) Natalia Spinuzza, in which she was in Amsterdam and narrated that she had consumed drugs and alcohol with her friends and partner. The San Luis Criminal, Correctional, and Misconduct, and Criminal Sentencing Judge of San Luis considered that there was no public interest in the publication made by Masci, and that the dissemination of the material in the way it was exposed was not authorized by the official, which meant an abuse of the right to freedom of the press.

58. In October, opposition representatives Waldo Wolff (president of the Freedom of Expression Commission), Fernando Iglesias, Jorge Enriquez, and Alvaro de Lamadrid filed a complaint against journalists Roberto Navarro, Ari Lijalad, and Franco Mizrahi, from the *El Destape* portal, for allegedly revealing intelligence information obtained based on their profession and whose secret they were obliged to keep.⁸³ The case had enormous social repercussions, generating pronouncements by journalistic organizations and even the publication with the signature of more than 1,000 media workers, academics, artists, intellectuals, and political leaders in repudiation of the “judicialization of journalism”.⁸⁴ On October 28, the prosecutor Eduardo Taiano and the federal judge María Servini de Cubría dismissed the criminal complaint for lack of

⁸⁰ Poder Judicial de la Nación, Cámara Nacional de Apelaciones en lo Civil, Sala H. “Denegri, Natalia Ruth C/ Google Inc S/ Derechos Personalísimos: Acciones Relacionadas” Expte. N° 50016/2016. Juzg. N° 78. Available for consultation at: <https://bit.ly/2H7RyhA>.

⁸¹ Diario Judicial. October 13, 2020. [Las fake news no son excusa para censurar](#); San Luis 24. October 14, 2020. [Revocan cautelar que ordenaba a Google eliminar resultados sobre una denuncia contra la esposa de Adolfo Rodríguez Saá](#); Comercio y Justicia. October 15, 2020. [Revocan cautelar contra los buscadores de Google y Yahoo](#).

⁸² Perfil. August 13, 2020. [Condenan a un periodista por publicar video donde ex ministra dice que consumió drogas](#); Adepa. August 13, 2020. [Preocupación por el fallo en San Luis contra Diego Masci](#); Clarín. August 13, 2020. [Condenan a un periodista por mostrar el video de una funcionaria que había fumado marihuana: preocupación de ADEPA](#); La Nación. August 14, 2020. [La Justicia de San Luis condenó a un periodista por difundir el video viral de la ministra que contaba su consumo de cannabis en Amsterdam](#).

⁸³ Clarín. August 14, 2020. [Acusan a Roberto Navarro y a otros dos periodistas ultra K de difundir la identidad de espías de la AFI](#).

⁸⁴ FOPEA. October 16, 2020. [FOPEA rechaza la criminalización de la prensa](#); Perfil. October 28, 2020. [Piden la renuncia en redes de Waldo Wolff por una denuncia a periodistas](#); Clarín. October 16, 2020. [ADEPA cuestionó el pedido de investigación judicial de diputados opositores contra periodistas](#).

crime.⁸⁵ In his opinion, the prosecutor pointed out that the accusation "severely restricts the right to freedom of expression that corresponds to the media".⁸⁶

59. On the other hand, on October 21, federal judge Ramos Padilla extended the prosecution of *Clarín* newspaper journalist Daniel Santoro, accusing him of being a member of a "parastatal illicit association" dedicated to illegal espionage and internal intelligence.⁸⁷ Since 2019, the judge has been investigating the alleged participation of the journalist in the illegal activities carried out by a criminal organization. In August of that year, he had been prosecuted for the crimes of "coercion and extortion in an attempted degree" for his actions in some of the cases adjudicated to the illegal spy ring. When summoning him to an investigation on that occasion, the judge indicated that the journalist "not only drew on the information provided by the organization, but also had knowledge of illegal espionage activities." Upon learning of the extension of its prosecution, the Association of Argentine Journalistic Entities (ADEPA) and the Argentine Journalism Forum (FOPEA) expressed concern about the judicial resolution, which they considered "a move to criminalize journalistic activity" and that it disavows that investigative journalism regularly has contact with sources whose activities are not always legal.⁸⁸ In December, the Office of the Special Rapporteur received with gratitude the decision of the Federal Court of Appeals of Mar del Plata that revoked the prosecution of the journalist.⁸⁹ In its ruling, the court ruled the lack of merit, considering that "the facts attributed to Santoro could only be framed within a neutral exercise of his professional activity, which -with right or wrong- do not allow by themselves or even in the circumstantial context referred to consider them as direct contributions to the criminal plan".⁹⁰ Citing inter-American jurisprudence, the judgment reaffirmed that "freedom of expression is a cornerstone in the very existence of a democratic society. It is essential for the formation of public opinion. It is also a *conditio sine qua non* so that political parties, trade unions, scientific and cultural societies, and in general, those who wish to influence the community can fully develop. It is, in short, a condition for the community, when exercising its options, to be sufficiently informed. Therefore, it is possible to affirm that a society that is not well informed is not fully free".⁹¹ The Office of the Special Rapporteur, through its Rapporteur Pedro Vaca, welcomed the decision of the federal court that "clears serious concerns about the use of the judiciary for censorship".⁹²

60. Based on the events recorded during 2020, the Office of the Special Rapporteur calls on the Argentine State to specially observe that:

61. **Attacks and aggressions committed against journalists and against the press violate the right to freedom of expression both in its individual and collective dimensions and cannot be tolerated in a democratic society.** The Office of the Special Rapporteur recalls that Principle 9 of the Declaration of Principles on Freedom of Expression of the IACHR states that "[t]he murder, kidnapping, intimidation of, and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of States to

⁸⁵ El Destape. October 28, 2020. [Marcha atrás del fiscal Taiano: desestimó la denuncia contra los periodistas de El Destape](#); Clarín. October 30, 2020. [Desestiman la denuncia de diputados opositores contra Roberto Navarro y otros dos periodistas de El Destape](#); Página 12. October 31, 2020. [La jueza Servini desestimó la denuncia del macrismo contra tres periodistas](#).

⁸⁶ Clarín. October 30, 2020. [Desestiman la denuncia de diputados opositores contra Roberto Navarro y otros dos periodistas de El Destape](#).

⁸⁷ El Destape. October 21, 2020. [Ampliaron el procesamiento de Santoro en el caso D'Alessio: los nuevos hechos que le adjudican](#); Perfil. October 22, 2020. [Ramos Padilla amplía los procesamientos a Marcelo D'Alessio y Daniel Santoro](#); Página 12. October 22, 2020. [Carlos Stornelli quedó a un paso del juicio oral por el espionaje ilegal con D'Alessio y su banda](#).

⁸⁸ Infobae. October 22, 2020. [ADEPA y FOPEA criticaron la última decisión judicial en el Caso D'Alessio: "La criminalización del periodismo crea un peligroso precedente"](#); Clarín. October 21, 2020. [FOPEA, ADEPA, legisladores, abogados y periodistas condenaron el fallo de Ramos Padilla contra Daniel Santoro](#); ADEPA. October 22, 2020. [Preocupación de la Academia de Periodismo por la ampliación del procesamiento a Santoro](#).

⁸⁹ Infobae. December 11, 2020. [Causa D'Alessio: la Cámara Federal de Mar del Plata revocó el procesamiento del periodista Daniel Santoro](#); Perfil. December 12, 2020. [Revocan el procesamiento de Daniel Santoro: el fallo completo de la Cámara de Mar del Plata](#); LatAm Journalism Review. December 22, 2020. [Fallo a favor de periodista Daniel Santoro sienta un precedente en la protección del periodismo de investigación en Argentina](#); ADEPA. December 15, 2020. [Adepa destaca los conceptos del fallo que revocó el procesamiento de Daniel Santoro](#).

⁹⁰ Poder Judicial de la Nación, Cámara Federal de Mar del Plata. [Santoro, Daniel y otros por Asociación Ilícita - Extorsión](#). December 11, 2020.

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

⁹² Twitter account of Special Rapporteur for Freedom of Expression, Pedro Vaca (@PVacaV). [December 12, 2020](#).

prevent and investigate such occurrences, to punish their perpetrators, and to ensure that victims receive due compensation.”

62. **Illegal surveillance actions against journalists prevent the full development of the right to freedom of the press.** In addition to directly interfering with the freedom to seek, receive, and impart information, this type of surveillance could put informants and confidential sources of the press at risk. Any measure aimed at seizing journalistic material, which requires releasing sources or citing journalists as witnesses, has a restrictive effect on freedom of expression. According to Principle 8 of the Declaration of Principles on Freedom of Expression of the IACHR, “every social communicator has the right to keep his/her source of information, notes, personal, and professional archives confidential.”

63. **The establishment or use of criminal offenses to punish misinformation or the dissemination of false news could have a strong inhibitory effect on the dissemination of ideas, criticism, and information.** This, given that the introduction of criminal offenses could bring the region back to a logic of criminalizing expressions about officials or matters of public interest, and of establishing a tool with a strong inhibitory effect on the dissemination of ideas, criticism, and information. Resolution 1/20 adopted by the IACHR highlights that in the event that subsequent liability for the dissemination of information or opinions is established, based on the protection of public health interests, it must be established by law, in a manner proportional to the imperative interest that justifies it, and must be closely adjusted to the achievement of that legitimate objective.⁹³

64. **Freedom of expression applies to the Internet in the same way as to all media.** This Office reiterates that restrictions on freedom of expression on the Internet are only acceptable when they comply with international standards that provide, among other things, that they must be provided for by law, pursue a legitimate purpose recognized by international law, and be necessary to achieve that end (the “tripartite” test).⁹⁴ In this sense, the Office of the Special Rapporteur reiterates the importance that any legislation that regulates the Internet does not contain vague and general definitions or disproportionately affect the free circulation of information, web pages, and legitimate services.⁹⁵ Regarding the “right to be forgotten,” this Office has considered that “the application in the Americas of a system of private removal and de-indexing of online content with such vague and ambiguous limits is particularly problematic in light of the wide regulatory margin of protection of freedom of expression under Article 13 of the American Convention on Human Rights”.⁹⁶

65. **The use of criminal mechanisms to punish speech on matters of public interest, especially related to public officials, is incompatible with inter-American standards.** Principle 11 of the IACHR Declaration of Principles on Freedom of Expression establishes that “[p]ublic officials are subject to greater scrutiny by society. Laws that penalize offensive expressions directed at public officials, generally known as “desacato laws,” restrict freedom of expression and the right to information.” In addition, the IACHR has argued that the use of criminal law in these cases does not respond to a pressing social need that justifies it, is unnecessary and disproportionate, and can be a means of indirect censorship given its discouraging effect on the debate on matters of public interest.⁹⁷ In the 2010 “Joint Declaration of the 10th anniversary: Ten key challenges for freedom of expression in the next decade”, the Special Rapporteurs of the UN, IACHR, OSCE, and ACHR, affirmed that “[t]he maintenance of obsolete norms –such as the laws of sedition or the

⁹³ IACHR. Resolution No. 1/20. [Pandemic and Human Rights in the Americas](#). Par. 33 - 34; IACHR. Special Rapporteurship for Freedom of Expression. March 19, 2020. Press Release R58/20. [COVID-19: Governments must promote and protect access to and free flow of information during pandemic – International experts](#).

⁹⁴ The United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples’ Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information. [Joint Declaration on Freedom of Expression and the Internet](#). June 1, 2011.

⁹⁵ UN Special Rapporteur for Freedom of Opinion and Expression and the IACHR-OAS Special Rapporteur on Freedom of Expression. January 20, 2012. [Joint Declaration](#).

⁹⁶ IACHR. Office of the Special Rapporteur for Freedom of Expression. [Standards for a Free, Open and Inclusive Internet](#). OEA/Ser.L/V/II CIDH/RELE/INF.17/17. March 15, 2017. Par. 132.

⁹⁷ IACHR. [Annual Report 2015. Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter V (Conclusions and Recommendations). OEA/Ser. L/V/II. Doc. 48. December 31, 2015.

requirement of the “veracity” of the news- intended to criminalize criticism of the government” constitute “illegitimate mechanisms of government control over the media”.⁹⁸

BAHAMAS

66. Throughout 2020, the Office of the Special Rapporteur continued to observe with concern the reports regarding the lack of implementation of the Freedom of Information Act (FOIA), sanctioned in 2017. This Office has also been concerned about the establishment of criminal figures to sanction the dissemination of false information within the framework of emergency regulations due to the pandemic. The Office of the Special Rapporteur continues to record the use of the crime of libel to limit freedom of expression. However, it welcomes the decision of the Supreme Court that pointed out that this criminal figure does not conform “to the structure of a modern Constitution” and asked Parliament to consider its viability.

A. Access to public information

67. In its last annual report, this Office of the Special Rapporteur reported the lack of progress regarding the implementation of the Freedom of Information Act (FOIA), which was enacted in 2017. In November 2020, the Prime Minister Hubert Minnis reiterated that his administration will fully enact the Freedom of Information Act. When asked by a journalist, the Prime Minister indicated that he was reviewing the credentials of possible candidates for information commissioner and that he hoped to make the selection and move forward with the appointment “very soon”.⁹⁹ As has been pointed out by the press, both the Prime Minister and the Attorney General have reiterated their promise of the “prompt” promulgation of the rule on several occasions, although that has not yet materialized.¹⁰⁰

68. According to available information, the Freedom of Information Act was part of an “Anti-Corruption Plan” of the Free National Movement (FNM) that Prime Minister Hubert Minnis launched on August 3, 2016, and which included, among other things, the enactment of a law for the protection of whistleblowers and transparency in the government [Transparency in Government Act], the reinforcement of the Prevention of Corruption and Bribery Act; the limitation of the terms of the prime ministers; and a system of dismissal of congress representatives with poor performance.¹⁰¹ In this regard, it has been noted that so far “no significant progress has been observed in the enactment of the FOIA and other promised laws that establish a strong anti-corruption regime and a more responsible government”¹⁰², with the exception of a provision of the Freedom of Information Act regarding whistleblowers that came into force on March 1, 2018.

69. Faced with the announcement by the head of state about the supposed progress towards the promulgation of the norm, civil society organizations urged legislators to act more quickly so that the law

⁹⁸ The United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples’ Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information. February 3, 2010. [Tenth Anniversary Joint Declaration: Ten key challenges to freedom of expression in the next decade.](#)

⁹⁹ The Nassau Guardian. November 5, 2020. [Editorial: Empty rhetoric](#); Eyewitness News. November 6, 2020. [Civil society urges govt. to pick up pace with FOIA.](#)

¹⁰⁰ The Nassau Guardian. November 5, 2020. [Editorial: Empty rhetoric](#); The Nassau Guardian. November 9, 2018. [PM: FOIA coming very soon](#); The Tribune. November 23, 2018. [Full Steam Ahead For Foi Act.](#) See also: Eyewitness News. September 6, 2020. [Lloyd: Freedom of Information Act await Cabinet’s Approval.](#)

¹⁰¹ Free National Movement. August 3, 2016. [Press Release. Dr. Minnis’ Releases the FNM’s Anti-Corruption Plan.](#)

¹⁰² The Nassau Guardian. November 5, 2020. [Editorial: Empty rhetoric.](#)

fully enters into force soon. In this sense, they indicated that the rule will be very beneficial in the Bahamas in the context of the COVID-19 pandemic.¹⁰³

70. On the other hand, as the Office of the Rapporteur learned, during the pandemic, health authorities would have limited the disclosure of information about coronavirus cases to the media and to society in general. When asked about this issue in a press conference, the Minister of Health, Renward Wells, said that "the participation of the press is not the first priority of health teams." The official pointed out that there would be no proof that the Ministry of Health is hiding information from citizens and the media, since it is "useless to do so".¹⁰⁴

B. Freedom of expression on the internet

71. According to available information, on March 17, the Governor General issued a series of emergency executive instruments (a Proclamation of Emergency, an Emergency Powers Regulations, and an Emergency Powers Order) that basically gave the executive branch certain powers to restrict fundamental freedoms in order to contain the spread of COVID-19.¹⁰⁵ This regulation included a provision on "publication of false statements", which established that "[n]o one may publish or make publish, post or re-post, on any media platform, including social networks, any alleged news or report, or any alleged statement of fact, knowing, or having reasonable grounds to suspect that it: (a) is false or not true; or (b) it can incite fear, panic, or ethnic hatred". Under these regulations, a person could be sentenced to a fine of \$ 10,000 dollars and/or a prison term of 18 months. On June 29, 2020, the Government urged the Governor General to sign a new emergency proclamation and an emergency regulation in terms almost identical to those of March 17, 2020, therefore the provision concerning the dissemination of false information was extended.¹⁰⁶

72. According to the information received, the circulation of harmful content on social networks had already been an object of concern on the part of the Bahamian authorities. At the beginning of March 2020, Pinewood Gardens congress representative, Reuben Rahming, would have criticized the "recklessness with which people communicate through social networks" and the "culture of libel" prevailing in the country, referring to among other things to the challenges of "fake news" in the context of the pandemic in the Bahamas.¹⁰⁷ In February 2020, the Speaker of the House of Representatives, House Speaker Halson Moultrie, assured that the circulation of certain harmful content on the internet would be "eroding the moral fabric of society".¹⁰⁸ Also, in 2019 it had noted that the standards of quality and accuracy of media information in the Bahamas had "declined" and as a result of competition with social networks there were a "number of false reports and stories based on opinions " in the newspaper.¹⁰⁹ Additionally, in June 2019 the Minister of Education, Jeffrey Lloyd, suggested modifying the law or promulgating new legislation "to criminalize the use of any electronic device, which exposes the life, reputation, identity or character of a minor, to public contempt or duration".¹¹⁰ Also, in 2018, the opposition leader, Philip Brave Davis, insisted that fake news and misinformation on social media represented a growing threat to democracy and its electoral process.¹¹¹

73. Following emergency regulation by the Government of the Bahamas, the Organization for Responsible Governance (ORG) indicated that the measure should be closely monitored to prevent abuse. "We do not feel like these measures are unprecedented or out of left field, but we certainly will be keeping an eye on it and we do hope that this is something that they will stick to their word and it will only be for the duration of the emergency response" said the organization, adding that "when you have this consolidated

¹⁰³ Eyewitness News. November 6, 2020. [Civil society urges govt. to pick up pace with FOIA.](#)

¹⁰⁴ Eyewitness News. August 10, 2020. [Wells: Health officials not withholding information from public.](#)

¹⁰⁵ Government of The Bahamas. Official Gazette. March 16, 2020. [Quarentine \(Novel Coronavirus "2019-NCOV"\) \(No. 2\) Order 2020;](#) Government of The Bahamas. Official Gazette. March 17, 2020. [Proclamation of Emergency;](#) Government of The Bahamas. Official Gazette. March 16, 2020. [Emergency Powers \(COVID-19\) Regulations.](#) See also: St. Kitts and Nevis Observer. March 18, 2021. [Coronaphobia: Bahamas State of Emergency Declaration;](#) Eyewitness. March 18, 2020. [New COVID-19 regulations would criminalize fake news.](#)

¹⁰⁶ Government of The Bahamas. Official Gazette. June 29, 2020. [Proclamation of Emergency;](#) Government of The Bahamas. Official Gazette. June 29. [Emergency Powers \(COVID-19 Pandemic\) Regulations, 2020.](#)

¹⁰⁷ Eyewitness News. March 12, 2020. [Another FNM MP calls for social media legislation;](#) Eyewitness. March 18, 2020. [New COVID-19 regulations would criminalize fake news.](#)

¹⁰⁸ Eyewitness News. February 20, 2020. [HOA Speaker calls for law to criminalize obscene social media posts.](#)

¹⁰⁹ Eyewitness News. October 24, 2019. [House Speaker attacks media.](#)

¹¹⁰ The Free Port News. June 17, 2019. [Persons exposing minors on social media should be jailed, said Lloyd.](#)

¹¹¹ Eyewitness News. December 3, 2018. [Davis: "Fake news" threatens democracy.](#)

power in one place[the prime minister], combined with these slippery slope encroaches upon our Freedom of Speech, we are right to worry and I do hope the Bahamian will keep an eye on it".¹¹²

C. Subsequent liabilities

74. In July, when deciding a case on criminal libel, a Supreme Court judge stated that such a criminal figure did not fit "within the structure of a modern Constitution" and asked Parliament to seriously consider its viability.¹¹³ The judge warned that there were "serious deficiencies" in the law, including the lack of procedural mechanisms or safeguards to decide when libel reaches the level of gravity that justifies the weight of criminal law. "Perhaps the time has come for Parliament to seriously consider whether such a crime is still viable or whether there should be a more modern catalog of alternatives to criminal libel...or other legislation specifically applicable to Internet-based platforms," said Judge Loren Klein.¹¹⁴

75. The case arose after a journalist filed a complaint with the police against Omar Archer, a Bahamian citizen, who had made allegedly offensive posts against her through Facebook. As a result, Archer was arrested by the police and charged with intentional libel. The case reached the Supreme Court after the defendant's lawyer argued that the provision of the Criminal Code that provides for libel is unconstitutional since it violates the right to freedom of expression and that the State's accusation was disproportionate since there were adequate civil remedies.

76. The judge rejected the constitutional appeal because she understood that Omar Archer's expressions attributed several serious crimes to the journalist, including infanticide and the violation of the Sexual Offenses Law, which were capable of causing harm. However, in the operative paragraph the ruling put on the table the problems of the use of criminal mechanisms to protect the honor and reputation of people, especially in the face of the new media scenario presented by digital technologies. "As a result of a habitual episode of conflicts in social networks, an important question of constitutional law arises, namely, whether the State can, in accordance with the Constitution, apply criminal law offenses to defamatory expression, and in what circumstances, instead of letting the parties resort to civil proceedings", indicates the court decision.¹¹⁵

77. Section 316 of the Penal Code establishes that "a person is guilty of libel who, by print, writing, painting, effigy, or by any means otherwise than solely by gestures, spoken words, or other sounds, unlawfully publishes any defamatory matter concerning another person, either negligently or with intent to defame that other person".

78. In light of the facts mentioned above, this Office of the Special Rapporteur calls on the State to take special consideration of:

79. **Transparency and accountability of public powers strengthen democratic systems.** Principle 4 of the IACHR Declaration of Principles on Freedom of Expression establishes that "[a]ccess to information held by the State is a fundamental right of every individual. States have the obligation to guarantee the full exercise of this right. This principle allows only exceptional limitations that must be previously established by law in case of a real and imminent danger that threatens national security in democratic societies." The IACHR's Resolution on Pandemic and Human Rights highlighted the importance of access to information in the current context due to COVID-19 and the crucial role that journalists play in the framework of the public health emergency, by reporting on critical points and monitoring government actions. In this regard, the IACHR also stressed that "states should not include communicators in freedom of movement restrictions and have the obligation to allow all media to access official press conferences, without discrimination based on editorial line, except for the necessary and proportionate measures to protect health"¹¹⁶.

¹¹² Eyewitness News. March 19, 2020. [ORG: Bahamians are right to worry about "fake news" emergency powers.](#)

¹¹³ Eyewitness News. July 3, 2020. [Supreme Court dismisses Omar Archer's constitutional motion in libel case.](#)

¹¹⁴ Commonwealth of the Bahamas in the Supreme Court. [Omar Archer Sr. and \(1\) Commissioner of Police and \(2\) The Attorney-General of the Commonwealth of the Bahamas.](#) Par. 185.

¹¹⁵ Commonwealth of the Bahamas in the Supreme Court. [Omar Archer Sr. and \(1\) Commissioner of Police and \(2\) The Attorney-General of the Commonwealth of the Bahamas.](#) Par. 3.

¹¹⁶ IACHR. Resolution No. 1/20. [Pandemic and Human Rights in the Americas.](#) April 10, 2020. Par. 29, 32; IACHR. Special Rapporteurship for Freedom of Expression. March 19, 2020. Press Release R58/20. [COVID-19: Governments must promote and protect access to and free flow of information during pandemic – International experts.](#)

80. **The establishment of criminal offenses to punish the dissemination of misinformation or false news could have a strong inhibitory effect on the dissemination of ideas, criticism, and information.** This, given that the introduction of criminal offenses could bring the region back to a logic of criminalizing expressions about officials or matters of public interest, and of establishing a tool with a strong inhibitory effect on the dissemination of ideas, criticism, and information. Resolution 1/20 adopted by the IACHR highlights that in the event that subsequent liability is established for the dissemination of information or opinions, based on the protection of public health interests, it must be established by law, in a manner proportional to the imperative interest that justifies it, and must be closely tailored to the achievement of that legitimate objective¹¹⁷.

81. **Freedom of expression applies to the Internet in the same way as to all media.** This Office reiterates that restrictions on freedom of expression on the Internet are only acceptable when they comply with international standards that provide, among other things, that they must be provided by law, pursue a legitimate purpose recognized by international law, and be necessary to achieve that end (the "tripartite" test). In addition, this Office has highlighted that "the mandatory blocking of entire websites, IP addresses, ports, network protocols, or certain types of uses (such as social networks) constitutes an extreme measure —analogous to the prohibition of a newspaper or a radio station or television— which could only be justified according to international standards, for example, when necessary to protect minors from sexual abuse".¹¹⁸

82. **The exercise of the right to honor, dignity, and reputation must be harmonized with the right to freedom of expression.** The Commission has indicated that although, according to Article 13.2 of the American Convention, the protection of the honor and reputation of others may be a reason to establish subsequent liabilities for the abusive exercise of freedom of expression, this must be done without prejudice to the exercise freedom of expression or the right to receive information. In this sense, the guarantee of the simultaneous exercise of rights must be carried out through a weighing and balancing exercise in each specific case. Likewise, both the IACHR and the Inter-American Court have emphasized that the principle of necessity requires that the State choose the least costly means for freedom of expression to repair the damage, so that "first, the right of rectification or response that is expressly enshrined in Article 14 of the American Convention should be invoked. Only if this is insufficient to repair the damage that has been caused, a person may resort to the imposition of more costly legal responsibilities for those who abused their right to freedom of expression, which generated a true and serious damage to rights of other persons or legal assets especially protected by the American Convention".¹¹⁹

¹¹⁷ IACHR. Resolution No. 1/20. [Pandemic and Human Rights in the Americas](#). Par. 33 - 34; IACHR. Special Rapporteurship for Freedom of Expression. March 19, 2020. Press Release R58/20. [COVID-19: Governments must promote and protect access to and free flow of information during pandemic – International experts](#).

¹¹⁸ The United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples' Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information. [Joint Declaration on Freedom of Expression and the Internet](#). June 1, 2011.

¹¹⁹ IACHR. [Inter-American Legal Framework Regarding the Right to Freedom of Expression](#). OEA/Ser.L/V/II CIDH/RELE/INF. 2/09. December 30, 2009. Par. 108.

BARBADOS

83. In 2020, the Office of the Special Rapporteur observed that legislation on access to information continues to be a pending issue in Barbados. In the framework of the 2018 general elections, Prime Minister Mia Mottley committed herself to introducing a bill to guarantee this right and, during 2019, various officials stated that the government was already working to ensure greater openness and transparency. However, the law has not yet been sent to Parliament.

84. On the other hand, the Office of the Special Rapporteur observes with extreme concern the murder of the reporter Christoff Griffith of *The Nation* newspaper, who was murdered in the exercise of his profession, and urges the State to investigate, prosecute, and punish those responsible, as well as to adopt the measures to prevent violence against media workers.

A. Murders

85. The Office of the Special Rapporteur received with extreme concern the murder of photojournalist Christoff Griffith of *The Nation* newspaper, while he was exercising his profession. According to available information, on June 22, 2020, the journalist went to St. Michael, southwest of Barbados, to cover a crime scene and, upon arriving at the scene, was attacked and killed by a man, who would also be the alleged perpetrator of the original crime.¹²⁰

86. As reported by the Committee to Protect Journalists and the media, both murders took place in the abandoned residence of an Anglican bishop where Glenroy James, the first victim of the attack and for which the photojournalist had approached the scene of the events, had been hired to clean. The alleged murderer was reportedly a homeless person who had been sleeping on said property.

87. On June 22, police arrested 35-year-old Dwayne Omar Gittens, charging him with the double homicide. The alleged perpetrator of the murders appeared in court on June 27, where a judge ordered that he remain in prison until at least July 24 and that he undergoes a psychiatric evaluation during his detention.¹²¹

88. The Caribbean Workers' Media Association condemned the deadly attack against the photojournalist and called on the authorities to act quickly to apprehend the perpetrator of the crime, also highlighting that the incident "reveals the vulnerability of media professionals".¹²² Additionally, the Barbados Association of Journalists and Media Workers (BARJAM) lamented the death of their colleague, while noting that the events

¹²⁰ Barbados Today. June 22, 2020. [Nation photojournalist among two killed](#); Newsday. June 22, 2020. [Barbados news photographer killed on assignment](#); Daily Express. June 22, 2020. [Barbados Nation newspaper photographer killed](#); Loop. June 22, 2020. [Bajan photojournalist killed at murder scene](#); Committee to Protect Journalists (CPJ). June 26, 2020. [Photojournalist Christoff Griffith killed at crime scene in Barbados](#).

¹²¹ Loop. June 22, 2020. [UPDATE: Police arrest Bishop's Court double-murder suspect](#); Loop. June 27, 2020. [VIDEO: Accused in Bishop's Court double-murder to be evaluated](#); Nation News. June 27, 2020. [Murder accused ordered to undergo psychiatric evaluation](#).

¹²² Association of Caribbean Media Workers / Facebook. [June 22, 2020](#).

have affected all the media “especially at a time when journalists are on the front line trying to keep the public informed during the coronavirus pandemic”.¹²³ The Inter-American Press Association, for its part, pointed out that the event “should draw attention to the risks journalists face at work for informing their communities”.¹²⁴

B. Access to public information

89. In 2020, civil society in Barbados continued to demand the promised legislation on access to public information that Prime Minister Mia Mottley had proposed during her election campaign in 2018. Journalists and organizations linked to the media and the press have warned that it is essential the prompt approval of this law in Barbados, which will be a “critical piece of democracy”.¹²⁵ In March, the president of the Barbados Association of Journalists and Media Workers (BARJAM), Emmanuel Joseph, expressed concern about the obstacles that often stand in the way of media workers trying to obtain public information, including basic information that should be available. Furthermore, the president of the Association of Journalists would have called on the government to enshrine this right in the Constitution. “A free press can only help strengthen our democracy of which we are so proud,” said Emmanuel Joseph in the framework of a public event. He also added that many public officials do not answer calls or respond to messages, they flatly refuse to speak or, when asked about an ongoing investigation, they are told that “there is no story there,” in an attempt to persuade them to drop the issue.¹²⁶ Likewise, police officers reportedly obstructed the work of journalists during 2020.¹²⁷ “We all have critical roles to play in this democracy and it would be good for us if we worked together and cooperated as much as possible,” insisted the president of the Association of Journalist.¹²⁸

90. According to the information available, Attorney General Dale Marshall indicated that the legislation on access to information would be sent to Parliament, and that it continued to represent a commitment by the Barbados Labor Party (BLP). The attorney general assured that “it is not a mere promise” to satisfy the electorate and get the highest number of votes possible, but rather it was a commitment that they would fulfill because they understood, during the decade they represented the opposition, “the importance of highlighting the excesses of the Government”.¹²⁹ In this regard, he noted that what was impeding the passage of the legislation were “several practical issues that need to be addressed, for example, the workforce resources that will be needed to provide meaningful access to information,” for example, “the punctuality in the delivery of the information and the integrity of the registry”.¹³⁰

91. Based on what was observed in 2020, the Office of the Special Rapporteur calls on the State of Barbados to have special consideration that:

92. **The murder of journalists constitutes the most extreme form of censorship, and impunity contributes to the self-censorship of the press.** States have a positive obligation to identify and punish the perpetrators of these crimes. As the IACHR and its Office of the Special Rapporteur have repeatedly stated, it is essential that the State fully, effectively, and impartially investigate the murders of journalists, clarify their motives, and judicially determine the relationship they may have to journalistic activity and freedom of expression. Authorities should not rule out the practice of journalism as a motive for the murder and/or assault before the investigation is completed. The omission of logical lines of investigation or the lack of diligence in the collection of evidence in this regard can have serious repercussions on the development of the processes in the stages of accusation or trial. Not having completely exhausted the logical lines of investigation entails, above all, that the intellectual authors cannot be identified.

¹²³ Nation News. June 22, 2020. [BARJAM statement on killing of photojournalist](#); Barbados Today. June 23, 2020. [Journalists: ‘It could have been me’](#).

¹²⁴ Inter-American Press Association (IAPA). July 1, 2020. [IAPA regrets case of journalist killed in Barbados](#).

¹²⁵ Barbados Advocate. July 21, 2020. [Barjam President: have greater respect for media workers](#).

¹²⁶ Barbados Advocate. January 3, 2020. [Barjam wants access to info](#); Barbados Today. November 30, 2020. [BARJAM says no to interference](#).

¹²⁷ Barbados Today. June 28, 2020. [BARJAM condemns treatment meted out to media workers](#).

¹²⁸ Barbados Advocate. January 3, 2020. [Barjam wants access to info](#); Barbados Advocate. December 1, 2020. [Barjam President defends role of the media](#).

¹²⁹ Barbados Today. December 2, 2020. [Legislation still on the cards](#).

¹³⁰ Barbados Today. December 2, 2020. [Legislation still on the cards](#); Government Information Service. December 1, 2020. [AG Commends Journalists For Work During Pandemic](#).

93. **Transparency and accountability of public powers strengthen democratic systems.** In this sense, principle 4 of the IACHR Declaration of Principles on Freedom of Expression establishes that “[a]ccess to information held by the State is a fundamental right of every individual. States have the obligation to guarantee the full exercise of this right. This principle allows only exceptional limitations that must be previously established by law in case of a real and imminent danger that threatens national security in democratic societies.”

BELIZE

94. In 2020, the Office of the Special Rapporteur took note of various attacks and accusations by officials and public figures against journalists and the media who were exercising their right to freedom of expression. Likewise, in the framework of the COVID-19 pandemic, the Office observed the use of criminal mechanisms to prosecute and punish those who publish allegedly false information. As reported by the Reporters Without Borders organization, coverage of political events in Belize continues to be controversial due to the existing extreme polarization.

A. Attacks, threats, and intimidation against journalists and the media

95. According to the information received by the Office of the Special Rapporteur, on September 30, 2020, journalist Hipólito Novelo from the program “News Five” on *Channel 5* was threatened over the phone by Brian “Yellow Man” Audinett, a recognized member of the United Democratic Party (UDP), and bearer of the ceremonial “mace” in the National Assembly.¹³¹ According to available information, the UDP member warned the journalist “to not mess with him on the news,” later threatening to physically attack him. The threat would be linked to an investigation by the reporter in which he released a series of documents that allegedly showed that, under the government led by the UDP (which in 2020 lost the general elections after having presided over the country for three periods), he had received more than \$50,000 dollars for home improvements, housing assistance, plus a stipend for National Assembly meetings, and a job on the National Sports Council. According to the media, it is not the first time that the political activist has harassed the press.

96. The news outlet noted that “while not surprising, it remains concerning because any threat, whether verbal or physical, cannot be tolerated, and a threat against a media worker can only be seen as an attack on freedom of the press”.¹³²

97. In January, Security Minister John Saldivar criticized the media for a series of articles that linked him to alleged bribery and irregularities in the context of a fraud case that was being judicially investigated in US courts. The official pointed out that the media were “from the People's United Party (PUP)”, accusing them of being biased, and that the information they published was “false and unfounded” and constituted a “desperate attempt to defame his name without proof”.¹³³

B. Disinformation and COVID-19

¹³¹ The World News. October 3, 2020. [“Yellow Man” Audinett threatens News Five’s Hipolito Novelo](#); Amandala. October 3, 2020. [“Yellow Man” Audinett threatens News Five’s Hipolito Novelo](#).

¹³² News 5. September 30, 2020. [“Yellow Man” Threatens News Five’s Journalist Hipolito Novelo](#).

¹³³ Breaking Belize News. January 30, 2020. [John Saldivar: ‘PUP media houses attempting to smear my name’](#); News 5. January 30, 2020. [Minister John Saldivar Continues to Deny Allegations](#);

98. At the beginning of the pandemic, Attorney General Michael Peyrefitte invoked Chapter 98 of the Summary Jurisdiction (Offences) Act to sanction those who disclose false information that could create panic in the population in the context of COVID-19. Section 3(1)(ix) of said law establishes that those who “maliciously manufacture or knowingly disseminate or publish, whether in writing or orally or otherwise, any false news or false report that tends to create or promote public alarm or to cause public harm” will be guilty of a petty misdemeanor. The sanctions range from fines of up to \$300 Belizean dollars or imprisonment of up to six months for those who are not repeat offenders or previous offenders of the law; or up to \$600 Belizean dollars and up to one year of imprisonment, for those who have committed multiple crimes.¹³⁴

99. According to the information available, under this law Erika Yanira Vargas, a 25-year-old woman from San José, Orange Walk district, was arrested in March, she posted on her social networks: “My eyes are full of tears. Please, God protect me and my family from the next case in San José. A whole family. The news will be confirmed tomorrow”, a comment that immediately went viral.¹³⁵ Likewise, the police reportedly detained Arthur Saldivar, a 48-year-old man in the capital city, Belmopán, who commented on his Facebook account that people from Los Angeles were supposedly trying to enter through the northern border, news that allegedly created a situation of significant public alarm.¹³⁶ Later, Saldivar pointed out that although they finally did not manage to enter, there was a certain risk in the face of the possibility of these people entering; he assured that his publication was not intended to create alarm but simply to provide information.¹³⁷ Both citizens were arrested and later released under warning.¹³⁸

100. When asked by the press about the arrests that were being made under the Summary Jurisdiction Law, Joseph Myvette, assistant to the Police Commissioner, pointed out that there are no special units dedicated to reviewing social networks. Along these lines, he warned that although there is an Information Technology Unit, the crime in question about false news was being dealt with in an ordinary way, in the same way as other common crimes. When asked about how the police determines when a specific publication is misleading or generates panic, the police officer stated that it would be based on “the response he receives” from other users, taking the case of Arthur Saldivar as an example which “would have led to other events”.¹³⁹

C. Access to public information

101. According to available information, the United Democratic Party decided to restrict access to the local media to cover the National Convention that would take place on February 9, 2020.¹⁴⁰ On the contrary, an observer from the political office of the United States embassy was reportedly allowed access. The media called this measure “archaic”, “counterproductive” and a “rare and worrying precedent”, at a time when access to timely information is crucial. In addition, they considered that it “severely limits the ability of the media to bring updated reports on this long-awaited race to their audience.” When asked about it, the outgoing president of the United Democratic Party, indicated that the National Council of the Party agreed not to allow the media to enter the venue while the party delegates were voting since there would be some delegates who preferred to not be so “unnecessarily exposed”.¹⁴¹

D. Legal reforms

102. In 2020, the House of Representatives and the Senate unanimously passed the Cybercrime Bill. The new legislation criminalizes various crimes committed on the Internet (which would include cyberbullying, child pornography, online stalking, and online harassment), also providing for the respective rules regarding

¹³⁴ Breaking Belize News. 30 de marzo de 2020. [Do new “fake news” regulations give GOB total control of the flow of public information?](#)

¹³⁵ Amandala. March 26, 2020. [Police make first arrest for “Spreading False News” amid COVID-19 crisis](#); Breaking Belize News. March 26, 2020. [Facebookers beware. Woman charged for spreading fake news on FB](#); Amandala. March 28, 2020. [Woman charged for “Spreading False News” amid COVID 19 crisis](#).

¹³⁶ Breaking Belize News. March 29, 2020. [Arthur Saldivar cautioned for spreading false rumors](#).

¹³⁷ Breaking Belize News. March 30, 2020. [Arthur Saldivar tells his side of ‘fake news’ story](#); News 5. March 30, 2020. [Attorney Arthur Saldivar Charged for Spreading False News](#); Amandala. April 1, 2020. [Police charge attorney Arthur Saldivar for Facebook post](#).

¹³⁸ Breaking Belize News. March 30, 2020. [Do new “fake news” regulations give GOB total control of the flow of public information?](#)

¹³⁹ Breaking Belize News. March 30, 2020. [Facebook police? Department denies having dedicated social media unit](#).

¹⁴⁰ News 5. February 6, 2020. [U.D.P. Leadership Convention to Limited Media Access on Feb. 9th](#); Breaking Belize News. February 8, 2020. [Media restricted in coverage of UDP National Convention – but BBN will be there!](#).

¹⁴¹ News 5. February 6, 2020. [U.D.P. Leadership Convention to Limited Media Access on Feb. 9th](#); Breaking Belize News. February 8, 2020. [Media restricted in coverage of UDP National Convention – but BBN will be there!](#).

the judicial process.¹⁴² Cordel Hyde, legislator of the House of Representatives said that the norm "will change the rules of the game" on social networks.¹⁴³ Opposition Senator Michel Chebat was concerned about the possible collision of the norm with the right to freedom of expression, guaranteed in the Constitution. For his part, Attorney General Michael Peyrefitte pointed out that "rights do not exist in a vacuum," and that the right to freedom of expression should not collide with the intention of committing a crime on the internet. "People are free to express themselves, but not in a way that could lead to harm to another person," he added. Among other interventions, Senator Mark Lizarraga warned of the need for a public education and awareness campaign.¹⁴⁴

103. As a result of the various events documented during 2020 in Belize, this Office calls on the State to bear in mind especially that:

104. **Attacks and aggressions committed against journalists and against the press violate the right to freedom of expression both in its individual and collective dimensions and cannot be tolerated in a democratic society.** The Office of the Special Rapporteur reminds that Principle 9 of the Declaration of Principles on Freedom of Expression of the IACHR states that "[t]he murder, kidnapping, intimidation of, and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of States to prevent and investigate such occurrences, to punish their perpetrators, and to ensure that victims receive due compensation."

105. **The establishment of criminal offenses to punish the dissemination of misinformation or false news could have a strong inhibitory effect on the dissemination of ideas, criticism, and information.** This, given that the introduction of criminal offenses could bring the region back to a logic of criminalizing expressions about officials or matters of public interest and of establishing a tool with a strong inhibitory effect on the dissemination of ideas, criticism, and information. Resolution 1/20 adopted by the IACHR highlights that in the event that subsequent liability is established for the dissemination of information or opinions, based on the protection of public health interests, it must be established by law, in a manner proportional to the imperative interest that justifies it and must be closely tailored to the achievement of that legitimate objective¹⁴⁵.

106. **Transparency and accountability of public powers strengthen democratic systems.** Principle 4 of the IACHR Declaration of Principles on Freedom of Expression establishes that "[a]ccess to information held by the State is a fundamental right of every individual. States have the obligation to guarantee the full exercise of this right. This principle allows only exceptional limitations that must be previously established by law in case of a real and imminent danger that threatens national security in democratic societies." Likewise, the Office of the Special Rapporteur recalls that the IACHR Resolution on Pandemic and Human Rights highlights the importance of access to information in the current context due to COVID-19 and the crucial role that journalists play in the framework of the public health emergency, by reporting on critical points and monitoring government actions. States have the obligation to allow all media to access official press conferences, without discrimination based on editorial lines, except for the necessary and proportional measures to protect health.¹⁴⁶

107. **Freedom of expression applies to the Internet in the same way as to all media.** This Office reiterates that restrictions on freedom of expression on the Internet are only acceptable when they comply with international standards that provide, among other things, that they must be provided by law, pursue a legitimate purpose recognized by international law, and be necessary to achieve that end (the "tripartite"

¹⁴² Breaking Belize News. September 16, 2020. [Cyber Crime Bill introduced](#); Amandala. September 19, 2020. [Cyber Crime Bill introduced in the House](#); Love FM. September 25, 2020. [Cybercrime Bill 2020](#); News 5. September 30, 2020. [Cyber Crime Bill is Passed in Senate](#); Amandala. September 30, 2020. [Child pornography, cyber bullying now a crime](#); News 5. October 1, 2020. [C.E.O. Says Cyber Crime Bill Is Necessary](#).

¹⁴³ Breaking Belize News. September 26, 2020. [Cyber-crime legislated: "The rules as we know it in social media will be no more"](#).

¹⁴⁴ Breaking Belize News. September 30, 2020. [Cyber Crime Bill – questions of free speech, support for data-driven businesses](#).

¹⁴⁵ IACHR. Resolution No. 1/20. [Pandemic and Human Rights in the Americas](#). April 10, 2020. Par. 33 - 34; IACHR. Special Rapporteurship for Freedom of Expression. March 19, 2020. Press Release R58/20. [COVID-19: Governments must promote and protect access to and free flow of information during pandemic – International experts](#).

¹⁴⁶ IACHR. Resolution No. 1/20. [Pandemic and Human Rights in the Americas](#). April 10, 2020.

test).¹⁴⁷ In this sense, the Office of the Special Rapporteur reiterates the importance that any legislation that regulates the Internet does not contain vague and general definitions or disproportionately affect the free circulation of information, web pages, and legitimate services.¹⁴⁸ Likewise, this Office recalls that “in exceptional cases, when dealing with openly illicit content or speeches not protected by the right to freedom of expression (such as war propaganda and the apology of hatred that constitutes incitement to violence, direct and public incitement to genocide, and child pornography) it is admissible to adopt mandatory measures to block and filter specific content. In these cases, the measure must be subjected to a strict proportionality test and be carefully designed and clearly limited in such a way that it does not reach legitimate speeches that deserve protection. In other words, the filtering or blocking measures must be designed and applied in such a way that they exclusively impact reputedly illegitimate content, without affecting other contents”.¹⁴⁹

BOLIVIA

108. Throughout 2020, the Office of the Special Rapporteur for Freedom of Expression received information about attacks, assaults, and threats against media workers as a result of their journalistic work. Likewise, the Office was informed about situations of excessive use of force by the police and military in the repression or dispersal of social protests, and about attacks against journalists in the framework of the coverage of the demonstrations. Various acts of violence against journalists were also recorded in the context of the demonstrations held in the months prior to the general elections on October 18, which led to clashes between different political sectors and situations of excessive repression by the security forces. On the other hand, within the framework of the measures adopted to prevent the spread of COVID-19 in the country, the Government of Bolivia imposed severe sanctions for those who did not comply with the quarantine established, which resulted in difficulties for the circulation of print media and journalists, who saw both their informative work and their economic viability hampered. In addition, journalists faced various obstacles and were victims of harassment in the framework of coverage of the COVID-19 pandemic and its impact on the country, as well as the management of public funds to address the crisis. During the health emergency, decrees were approved that included restrictive provisions on freedom of expression by imposing, through ambiguous concepts, criminal sanctions on those who “misinform or generate uncertainty” among the population, which were repealed in response to the concern of social organizations and the media. However, on various occasions, government authorities warned with criminal penalties those who spread false news and announced “cyber-patrol” actions to detect people who in their opinion “misinform” on social networks.

A. Attacks, threats, and intimidation against journalists and the media

109. The Office of the Special Rapporteur received information on attacks, assaults, and threats against media workers as a result of their journalistic work, from both private individuals and public officials.

110. A case that was of special concern to the Office of the Special Rapporteur was the dissemination, by the Ministry of Government, of a statement on May 31 in which the journalist Junior Arias was accused of waging a “dirty war” and a “political war” against the government, and was ordered to “rectify” information on the alleged irregular purchase of chemical agents by the State, which the ministry described as “false” and damaging to their “prestige and dignity”¹⁵⁰. After the release of the statement, the journalist, who worked for the television channel *Gigavisión* and the portal *Detrás de la Verdad*, announced that he would take a temporary leave of absence to ensure the safety of the channel's workers. “It is a measure to protect the safety of our families, to protect the physical integrity of those who make up this television network,” he said on June 3 when he said goodbye to his program. The director of *Gigavisión*, Jorge Arias, reported that he asked the journalist to take advantage of a temporary leave of absence to “verify if the conditions to exercise

¹⁴⁷ The United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples’ Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information. [Joint Declaration on Freedom of Expression and the Internet](#). June 1, 2011.

¹⁴⁸ UN Special Rapporteur for Freedom of Opinion and Expression and the IACHR-OAS Special Rapporteur on Freedom of Expression. January 20, 2012. [Joint Declaration](#).

¹⁴⁹ IACHR. Office of the Special Rapporteur for Freedom of Expression. [Freedom of Expression and the Internet](#). OEA/Ser.L/V/II. IACHR/RELE/INF. 11/13. December 31, 2013. Par. 85.

¹⁵⁰ Twitter account of Ministerio de Gobierno de Bolivia (@MindeGobierno). [May 31, 2020](#).

journalistic work exist and if the Government can provide the guarantees”¹⁵¹. The journalist has made several publications about alleged cases of corruption in the government. Weeks before, he had denounced being a victim of "political attacks" by the La Paz Mayor's Office after questioning the mayor about a contract with a hotel to provide an isolation site for mild and suspected cases of coronavirus¹⁵². The Special Rapporteur for Freedom of Expression of the IACHR expressed his “grave concern” over the statement from the Ministry of Government regarding the journalistic investigation and argued that “accusing a media outlet of waging a 'dirty war' or 'political war' is stigmatizing, instead of providing accountability on the underlying issue”¹⁵³. On June 4, the Minister of Defense, Fernando López, affirmed in a press conference that the information disseminated was false and, although he remarked that the press workers have “guarantees” to do their work and “are in all their rights to carry out the investigations they require”, he asked the journalists not to make “the mistake” that in his opinion the media made¹⁵⁴. On June 8, the La Paz Prosecutor's Office admitted a criminal complaint filed by seven legislators of the *Movimiento Al Socialismo* (MAS) against Ministers Arturo Murillo and Fernando López as a result of the journalistic investigation that revealed an alleged overcharge in the purchase of tear gas. The State Attorney General, Juan Lanchipa, reported that the Prosecutor's Office will summon the denounced authorities and the administrative personnel of the Government and Defense ministries to testify in the case¹⁵⁵. Likewise, a special mixed commission of the Legislative Assembly is investigating the purchase, with an alleged overpricing, of riot control materials and summoned four ministers to explain the details of the acquisition¹⁵⁶.

111. On May 2, the Special Federation of Rural Workers of Yanacachi warned of taking “drastic determinations” against the journalist of *Radio FM Bolivia*, David Quintanilla, for “creating division and damaging the dignity of the municipality” through the news report with “half-truths”, after the station reported on the arrest of the mayor of Yanacachi, Wilfredo Cossío, for the alleged sale of vehicle circulation permits during quarantine¹⁵⁷.

112. The illustrator and cartoonist for the printed media *Página Siete*, Abel Bellido Córdova, known by his pseudonym “Abecor”, was the victim of repeated threats and harassment throughout 2020. On June 13, for example, he received threats from a lawyer and a former public official during the government of the *Movimiento Al Socialismo* (MAS), Jarry Sacaca Garabito. “You moron, your days are numbered damned UNTEL coup plotter boy. You have an expiration date and it is September 6, as the brave Junior says,” the message stated¹⁵⁸. *Página Siete* denounced the threats to the Minister of Internal Security and requested guarantees to protect his life and work¹⁵⁹. The Bolivian Office of the United Nations High Commissioner for Human Rights condemned the recurring threats against the illustrator¹⁶⁰.

113. In other episodes of which the Office of the Special Rapporteur became aware, on May 12, reporters from the private television channel *Red Uno* and the newspapers *Opinion* and *Los Tiempos* were attacked in the southern part of the city of Cochabamba, where residents blocked the entrance to the K'ara K'ara's landfill, demanding public works and the resignation of the President and the Minister of Internal Security¹⁶¹; Journalists Guido Vино Paco, from the radio *La Voz de las Mayorías*, and Yerko Blanco, from *Radio Yungueña FM*, reported being victims of verbal attacks, threats, and accusations by municipal officials of the city of

¹⁵¹ Correo del Sur. June 3, 2020. [El periodista Junior Arias pone pausa a su trabajo y denuncia “cobardía” del Gobierno](#); Erbol. June 3, 2020. [Gigavisión decide repliegue temporal de Junior Arias; denuncia “maquinación” en su contra](#); La Razón. June 3, 2020. [Presionado. Arias deja Gigavisión: ‘Lamento la cobardía y al abuso de poder de este Gobierno’](#).

¹⁵² Oxígeno. April 22, 2020. [Periodista denuncia ser víctima de ‘ataques políticos’ de la Alcaldía de La Paz por cuestionar a Revilla](#); Twitter account of Ollie Vargas (@OVargas52). [April 27, 2020](#).

¹⁵³ Twitter account of Edison Lanza (@EdisonLanza). [June 1, 2020](#).

¹⁵⁴ Opinión/EFE. June 4, 2020. [Gobierno ofrece garantías a periodistas tras recibir críticas](#); Erbol. June 4, 2020. [López niega sobreprecio en la compra de gases y afirma que denuncia tiene falsedades](#).

¹⁵⁵ La Razón. June 12, 2020. [La Fiscalía citará a autoridades y administrativos en el caso de material antidisturbios](#).

¹⁵⁶ Brújula Digital. September 2, 2020. [Comisión legislativa cita a 4 ministros por la presunta compra irregular de material antidisturbios](#).

¹⁵⁷ ANP. May 4, 2020. [Comunarios amenazan a periodista en Sud Yungas](#); Rympa. (n.d.). [Periodista de Yanacachi denunció corrupción y dirigentes campesinos piden con amenaza que sea “suspendido”](#).

¹⁵⁸ ANP. June 14, 2020. [Alto Comisionado condena nuevas amenazas contra caricaturista](#).

¹⁵⁹ Página Siete. June 16, 2020. [Las amenazas a Abecor](#); Página Siete. April 30, 2020. [Amenazas a Abecor vienen de perfiles afines al MAS](#); La Razón. April 28, 2020. [Página Siete denuncia amenazas a su caricaturista Abecor](#).

¹⁶⁰ ANP. June 14, 2020. [Alto Comisionado condena nuevas amenazas contra caricaturista](#).

¹⁶¹ Los Tiempos. May 12, 2020. [Persiste el bloqueo en K'ara K'ara y agreden a periodistas](#); Opinión. May 13, 2020. [En K'ara K'ara agreden a periodistas y mantienen bloqueo](#); ANP. May 13, 2020. [Rodearon y agredieron a periodistas en Cochabamba](#).

Caranavi, on June 5 when they covered a session of the City Council¹⁶²; a journalist from the newspaper *El Potosí* was attacked on July 11 by residents of the rural district of Miraflores, while reporting on conflicts over the use of spaces of community interest¹⁶³.

114. The director and owner of *Radio Tv Apolo Bolivia*, Edgar Toro Lanza, denounced that in the early morning of May 7 the outlet, located in the Apolo municipality, Franz Tamayo province, was the victim of the theft of its equipment. The incident was reported to the police and the municipal Prosecutor's Office¹⁶⁴.

115. On August 14, an individual tried to stab the journalist Omar Escobar, from *Red Erbol*, while he was covering a town hall meeting in the city of El Alto, called by rural organizations from the provinces of the La Paz department. According to Escobar, when the activity ended, he recorded images and videos of how some protesters threw objects at vehicles that were circulating through a nearby tollbooth. When he was preparing to interview the leaders, an individual observed that he had videos of the attacks on his phone and demanded that he delete them. Faced with the journalist's refusal, the individual tried to stab him twice. Then a group surrounded the journalist and began to threaten and attack him with sticks, until another reporter managed to help him to leave the place¹⁶⁵.

116. On October 7, the journalist and content director of *El Potosí*, Juan José Toro, was beaten by a group of mining cooperative members while covering an inspection of Cerro Rico, after he denounced controversial silver mining activities. The attackers prevented him from carrying out his work and threatened to kill him. Toro filed a complaint against the attackers with the Prosecutor's Office¹⁶⁶.

117. On October 12, press workers from the Guayaramerín municipality, in the Beni department, were attacked by a group of people while covering a protest by families demanding a family basket and the resignation of the highest executive authority of that municipality¹⁶⁷.

118. On November 16, alleged supporters of *Creemos* prevented the entry of congress representatives of the *Movimiento Al Socialismo* to the Departmental Assembly of Santa Cruz and attacked a journalist from the "Primera Línea" news program that was covering the event¹⁶⁸.

119. On November 17, several media workers suffered verbal and physical attacks and were prevented from doing their work while covering social protests in the city of Montero, department of Santa Cruz, following the decision of the Municipal Council to appoint a new interim mayor¹⁶⁹.

B. Obstacles to journalistic work during the COVID-19 pandemic

120. In the framework of the measures adopted to prevent the spread of COVID-19 in the country, the Government of Bolivia imposed severe sanctions for those who fail to comply with the established quarantine, which resulted in difficulties for the circulation of print media and journalists, who saw both their informative work and their economic viability hampered.

¹⁶² ANP. June 15, 2020. [Periodistas fueron agredidos por funcionarios municipales de Caranavi](#).

¹⁶³ El Potosí. July 13, 2020. [Denuncian ante la Fiscalía agresión a periodista](#); ANP. July 12, 2020. [En Potosí: periodista fue agredido por comunarios](#).

¹⁶⁴ ANP. May 7, 2020. [Silencian a Radio Tv Apolo Bolivia](#); EJU!. May 7, 2020. [Denuncian robo de equipos de radio televisión Apolo](#).

¹⁶⁵ Erbol. August 17, 2020. [Intentan apuñalar y agreden a periodista de ERBOL en una movilización](#); ANP. August 19, 2020. [Periodista salva la vida de un intento de apuñalamiento](#).

¹⁶⁶ Correo del Sur. October 7, 2020. [Agreden brutalmente a un periodista de El Potosí por denunciar daño al Cerro Rico](#); ANP. October 7, 2020. [Periodista que denunció extracción de plata en Cerro Rico de Potosí sufre intento de asesinato](#).

¹⁶⁷ ANP. October 20, 2020. [Periodistas fueron agredidos durante cobertura informativa](#).

¹⁶⁸ Radio Kawsachun Coca (@KawsachunCoca). [16 de noviembre de 2020](#); ANP. 17 de noviembre de 2020. [Periodista sufre ataque con gas pimienta](#).

¹⁶⁹ The journalists assaulted were Vivian Pérez and Gabriel Roca, from *Canal 48*; Wilber Zabala, from the online version of *Zona Norte* daily, who was hit by tear gas fired by riot police, and Luis Revollo of *El Informador* website; *Unitel* and *Red Uno* press teams were prevented from doing their news coverage; and the vehicles of some media outlets were vandalized. Opinión. November 18, 2020. [Montero: periodistas fueron agredidos en medio de un conflicto municipal](#); ANF. November 18, 2020. [Condenan agresión a periodistas durante conflicto municipal en Montero](#); ANP. November 18, 2020. [Montero: periodistas fueron agredidos en medio de un conflicto municipal](#).

121. On March 25, the Bolivian government decreed a State of Health Emergency and warned that violators of the total quarantine decreed to combat the pandemic could be sentenced to up to ten years in prison for violating public health. "Those who incur in breach of duties and crimes against public health will be punished with deprivation of liberty from one to ten years," the Ministry of Justice reported in a statement. For her part, President Jeanine Áñez reported that she would mobilize the Army and the Police to control compliance with the measures¹⁷⁰. Only in March, for example, ten people in La Paz and five in Cochabamba were sent to jail, with pre-trial detention, for violating the quarantine¹⁷¹. In addition, there were cases of abuse of force to enforce obedience to quarantine by the military and police¹⁷². Along the same lines, government authorities resolved on April 10 to militarize the city of Santa Cruz de la Sierra as an emergency measure in the face of increasing cases of coronavirus. In addition, the Minister of Productive Development, Wilfredo Rojo, announced the approval of a municipal decree declaring Santa Cruz a "city of disaster and alarm." "As we are at war we are not going to argue, citizens in times of war only obey. Therefore, we mandate the entire population to comply with this municipal decree," he declared. The authority warned that those who use adulterated circulation permits would be prosecuted, as well as the police and military who allow their use, and reported that to date there were 87 people imprisoned for that reason¹⁷³.

122. In this context, the National Press Association (ANP) warned of the danger of collapse of various media due to the halt of circulation as a result of the economic impact of the COVID-19 pandemic and the restrictions imposed¹⁷⁴. On April 27, the Inter-American Press Association (IAPA) expressed its deep concern about the state of fragility of Bolivian newspapers, which began to publish only in digital form, when, according to what was reported, 95% of their livelihood source is based on the circulation of printed editions and the sale of print advertising¹⁷⁵. On March 26, the newspaper *La Razón* reported that it would suspend its print edition due to restrictions applied by the Government¹⁷⁶. In mid-April the newspapers *Correo del Sur* and *El Potosí*, from Sucre, and *El Deber*, from Santa Cruz, announced that they would resume their printed publications but with a weekly format, instead of daily¹⁷⁷. The ANP sent a letter to President Jeanine Áñez expressing its concern about the difficulties of the printed media due to the loss of 95% of their income due to the health emergency¹⁷⁸. On April 24, the Minister of the Presidency, Yerko Núñez, invited the ANP to hold a meeting to "discuss issues of interest" in the sector¹⁷⁹.

123. Likewise, journalists faced various obstacles and were victims of harassment as part of their coverage of the COVID-19 pandemic and its impact on the country. Thus, for example, a press team from the *Red Bolivisión* was attacked on March 23 by merchants who were not respecting the restrictions on sale in markets imposed by the government to contain the coronavirus¹⁸⁰; On June 5, journalist Nayma Enríquez, from *Red Uno de Televisión*, and her press team were attacked by merchants at a street fair in the city of El Alto who violated a municipal prevention provision against COVID-19¹⁸¹.

C. Social Protest

¹⁷⁰ El País. March 25, 2020. [Bolivia extiende la cuarentena y amenaza a quien la incumpla con hasta 10 años de cárcel](#); El Deber. March 25, 2020. [Gobierno dicta estado de emergencia sanitaria en Bolivia hasta el 15 de abril](#); Sputnik. March 25, 2020. [Gobierno boliviano amenaza con 10 años de cárcel a infractores de cuarentena por COVID-19](#).

¹⁷¹ Radio Fides. April 6, 2020. [Sancionan con cárcel para 10 personas que incumplieron la cuarentena total](#); Eju!. March 24, 2020. [Envían a la cárcel a 15 personas por incumplir la cuarentena en La Paz y Cochabamba](#).

¹⁷² Twitter account of Ricardo Aguilar (@RicardoAglrA). [March 22, 2020](#); Twitter account of John Arandia (@JohnArandia). [March 22, 2020](#).

¹⁷³ La Razón. April 10, 2020. [Santa Cruz será militarizada para contener el COVID-19](#); El Deber. April 10, 2020. [Gobierno decide militarizar Santa Cruz para contener el Covid-19](#).

¹⁷⁴ Correo del Sur. March 30, 2020. [La ANP advierte grave peligro de colapso de los diarios del país](#); Xinhua. April 7, 2020. [ESPECIAL: Diarios en Bolivia en riesgo por falta de circulación debido a COVID-19](#).

¹⁷⁵ Inter-American Press Association (IAPA). April 27, 2020. [IAPA concerned about the fragility of Bolivian newspapers](#); ANP. April 27, 2020. [Preocupación de la SIP por fragilidad de los periódicos bolivianos](#)

¹⁷⁶ La Razón / Facebook. March 26, 2020. [Comunicado](#).

¹⁷⁷ Diario Libre/EFE. April 15, 2020. [Los diarios bolivianos vuelven a circular como semanarios por el COVID-19](#).

¹⁷⁸ El Deber. April 23, 2020. [80 intelectuales, escritores y artistas piden a la presidenta Áñez atención urgente a los diarios](#).

¹⁷⁹ ANP. April 26, 2020. [La ANP recibió respuesta del Ministerio de la Presidencia](#).

¹⁸⁰ Bolivisión. April 23, 2020. [Comerciantes agredieron a periodistas](#).

¹⁸¹ Página Siete. June 5, 2020. [Comerciantes agreden a funcionarios de la Alcaldía de El Alto](#); ANP. June 11, 2020. [Equipo de televisión fue agredido en El Alto](#).

124. The Office of the Special Rapporteur received information on situations of excessive use of force by the police and military in the repression or dispersal of social protests. Likewise, it was informed of various attacks against journalists and media workers in the framework of coverage of the demonstrations, in some cases by the protesters and in others by the security forces themselves.

125. Among the most serious situations reported is the attack on the cameraman Carlos Gómez, the journalist Joana Tapia, and the driver of a mobile unit of the *ATB* channel on May 20, when protesters, who were blocking access to the K'ara K'ara landfill, near the city of Cochabamba, threw stones, wounded the cameraman in the chest, and damaged the media's vehicle. The journalistic team filed a complaint with the Special Force to Fight Crime¹⁸². Likewise, four media workers were attacked and received death threats on June 11 in the town of Entre Ríos when they were covering a demonstration in rejection of the restrictions imposed to stop the spread of COVID-19. The journalist Rodolfo Orellana, the cameraman Joel Orellana, and the driver Iván Escóbar, of the private television channel *Unitel*, and the journalist Soledad Prado, a correspondent for the newspaper *El Deber*, were prevented from carrying out their work and had to take refuge in a vehicle, which the protesters they surrounded and threatened to set fire. The journalists managed to leave the scene with the help of a police escort. The Office of the Special Rapporteur for Freedom of Expression expressed its "concern" over the attack and demanded that the Government "reinforce the security" of journalists in social protests¹⁸³.

126. On the other hand, the decision of the Supreme Electoral Tribunal (TSE) to postpone the date of the presidential elections, set for September, until October 18, due to the health emergency situation, generated numerous social protests during the month of August, in particular, from sectors related to the previous administration chaired by Evo Morales¹⁸⁴. Demonstrations were organized and barricades were erected to block the passage on different highways, in protest at the postponement of the elections, called mainly by the Bolivian Workers' Central and the indigenous and rural movements, close to the *Movimiento al Socialismo* (MAS). During the demonstrations, various violent actions were reported, both by protesters and by the security forces and armed groups. In addition, at least seven people were arrested during the demonstrations in Oruro and El Alto¹⁸⁵.

127. On August 7, the Inter-American Commission on Human Rights (IACHR) urged the Bolivian State to establish a dialogue with the political agents involved in the demonstrations and to prevent the escalation of violence. Both the IACHR and the Bolivian Ombudsman's Office expressed concern about the creation of armed groups that acted violently against various protesters¹⁸⁶.

128. There were also attacks and harassment against the press workers and situations of abuse of force by the security forces¹⁸⁷. Thus, for example, on August 5, militants from the *Movimiento al Socialismo* (MAS) intimidated, verbally assaulted, and damaged the work equipment of journalists from *Radio y Televisión Popular* (RTP), *Erbol*, and *UNO*, according to reporters from those media¹⁸⁸. Also, that day, photojournalist David Sapiencia was attacked by a group of people who injured his head and stole his work equipment, while he was covering a roadblock in the Mairana municipality organized by alleged MAS sympathizers who protested against the postponement of the general elections. The journalist announced that he would file a

¹⁸² ANP. May 29, 2020. [Equipo de prensa de ATB escapó de brutal ataque](#).

¹⁸³ ANP. June 11, 2020. [Manifestantes intentaron linchar a periodistas](#); Pulso/EFE. June 12, 2020. [Exigen defender la libertad de prensa en Bolivia, tras grave ataque a periodistas](#); Página Siete. June 11, 2020. [Relator Especial para la Libertad de Expresión pide "reforzar seguridad" de periodistas](#); Committee to Protect Journalists (CPJ). June 16, 2020. [Protesters assault Bolivian journalists from Unitel TV and El Deber](#).

¹⁸⁴ El País. July 23, 2020. [El Tribunal Electoral de Bolivia aplaza las elecciones presidenciales hasta el 18 de octubre](#); DW. August 11, 2020. [Protestas en Bolivia ante aplazamiento de elecciones](#)

¹⁸⁵ IACHR. August 7, 2020. [The IACHR Calls on the State of Bolivia to Step Up Efforts to Establish a National Dialogue and to Prevent the Escalation of Violence in the Context of Recent Demonstrations](#); Defensoría del pueblo. August 4, 2020. [DEFENSORÍA DEL PUEBLO CONDENA LA VIOLENCIA DURANTE LOS BLOQUEOS Y EXHORTA AL TSE, COB Y AL PACTO DE UNIDAD A RETOMAR EL DIÁLOGO](#); Monitor Cívicus. October 1, 2020. [Dos semanas de barricadas tras aplazamiento de las elecciones presidenciales hasta octubre de 2020](#); Nodal. (n.d.). [Bolivia: represión en El Alto y bloqueos en todo el país en el comienzo del paro indefinido por postergación de elecciones](#); Red Uno. August 7, 2020. [Al menos 7.000 camiones están varados en carreteras por bloqueos](#).

¹⁸⁶ IACHR. August 7, 2020. [The IACHR Calls on the State of Bolivia to Step Up Efforts to Establish a National Dialogue and to Prevent the Escalation of Violence in the Context of Recent Demonstrations](#).

¹⁸⁷ Página Siete. August 5, 2020. [Al menos 5 periodistas fueron agredidos en las marchas y bloqueos del Pacto de Unidad](#).

¹⁸⁸ ANP. August 9, 2020. [Periodistas fueron agredidos en cercanías del Tribunal Electoral](#); ANF. August 10, 2020. [Activistas de "Resistencia" agreden a periodistas cerca al Tribunal Supremo Electoral](#).

complaint with the Prosecutor's Office for attempted murder¹⁸⁹. On August 8, situations of violence were reported in Plaza Abaroa, in La Paz, when a group of young people identified as *Resistencia Juvenil* tried to evict MAS' protesters who had been on strike against the postponement of the elections for days. The journalists and television cameramen covering the protest reportedly suffered various attacks from activists of the so-called "resistance"¹⁹⁰. On August 9, the mobile unit of the Christian television channel *VTV*, in the city of El Alto, was vandalized with stones thrown by young people who blocked Costanera Avenue in rejection of the postponement of the general elections¹⁹¹. On August 12, a press team from *Red Uno* television was surrounded and attacked by protesters who were interrupting the vehicle traffic in the Santa Fe de Yapacaní region, in the municipality of San Carlos¹⁹².

129. On August 17, congress representative Betty Yañiquez, from the *Movimiento Al Socialismo* (MAS), presented a draft bill for the Protection and Non-Criminalization of Social Protest. According to the legislator, the proposed rule seeks to "ratify" constitutional rights and guarantees, as well as "more favorable rights contained in international treaties and instruments on human rights in favor of social leaders, trade union leaders, and any mobilized person"¹⁹³.

130. On September 28, the Police repressed with gas and allegedly excessive use of force workers of the *Abya Yala* channel who were demonstrating in Murillo Square to demand that the government pay debts for government advertising¹⁹⁴.

D. Stigmatizing statements

131. According to the information received, former president of Bolivia Evo Morales described the media as "number one enemies" and attributed complicity to them in the alleged coup in the country, during a videoconference held on 8 October. "Something has to be done in the media," declared Morales, who resigned from the presidency on November 10, 2019 in the context of a political and institutional crisis. The National Press Association (ANP) rejected Morales' statements and urged the candidates to publicly declare their respect for freedom of the press¹⁹⁵.

132. Likewise, the Fides News Agency (ANF) denounced the dissemination of a smear campaign that linked the financing it received from the US organization National Endowment for Democracy (NED) for journalistic reports with an alleged plan to destabilize the government of Evo Morales. The version disseminated through social networks arose after independent media denounced that during the previous government, millionaire advertising contracts were favored by certain newspapers, magazines, and weeklies who sympathized with that administration¹⁹⁶.

133. The Office of the Special Rapporteur was also informed that the Minister of Government, Arturo Murillo, accused community radio stations such as *Radio Kausachun Coca* (RKC) of "stirring up" attitudes of sedition, terrorism, and violence that resulted in the destruction of radio bases or telecommunications antennas. Murillo said that these media cover the main leaders who encourage violence and identified former President Evo Morales as the main agitator. "What they use for this is the communications through Kawsachun Coca, through community radio stations (...). These radios like RKC stir up violence, terrorism,

¹⁸⁹ Committee to Protect Journalists (CPJ). August 11, 2020. [Bolivian photojournalist David Sapiencia attacked by protesters](#); ANP. August 6, 2020. [Fotoperiodista agredido presentará denuncia por tentativa de homicidio](#).

¹⁹⁰ Twitter account of La Razón (@LaRazon_Bolivia). [August 8, 2020](#); Correo del Sur. August 8, 2020. [Tensión en el TSE: Un grupo de jóvenes intentó desalojar a los huelguistas](#); ANP. August 9, 2020. [Periodistas fueron agredidos en cercanías del Tribunal Electoral](#).

¹⁹¹ ANP. August 10, 2020. [El Alto: apedrean unidad móvil de canal cristiano](#).

¹⁹² ANP. August 17, 2020. [Cercos y ataques al equipo de prensa de la Red Uno](#); Red Uno. August 14, 2020. [La Red Uno de Bolivia apoya a sus trabajadores tras ser agredidos por bloqueadores](#).

¹⁹³ La Razón. August 17, 2020. [Diputada del MAS presenta anteproyecto de ley de no criminalización de la protesta](#); Correo del Sur. August 17, 2020. [MAS formaliza proyecto de ley para proteger a movilizados: Gobierno dice que no puede ser retroactiva](#).

¹⁹⁴ Twitter account of Erbol (@ErbolDigital). [September 28, 2020](#); Página Siete. September 28, 2020. [Periodistas del canal Abya Yala fueron reprimidos en la plaza Murillo](#).

¹⁹⁵ ANP. October 9, 2020. [Diarios rechazan advertencias de expresidente Evo Morales](#); Página Siete. October 8, 2020. [Para Evo, los medios de comunicación son los «enemigos número uno»](#).

¹⁹⁶ ANP. May 18, 2020. [Agencia ANF denuncia ataque para desacreditar su labor periodística](#).

sedition; those radios should be shut down. Normally the leaders speak but the main one who speaks is Evo Morales," said Murillo¹⁹⁷.

E. Subsequent liabilities

134. On September 11, the Human Rights Watch organization released a report titled "Justice as a Weapon: Political Persecution in Bolivia," in which it surveyed situations in which it understood that the government used the justice system to persecute collaborators and supporters of former President Evo Morales. The document indicates, among other aspects, that criminal proceedings were initiated to curtail the freedom of expression of political supporters of Morales. It mentions, for example, the case of Mauricio Jara, a sympathizer of the former president who was charged by the Prosecutor's Office for the crimes of sedition, public instigation to commit a crime, and attacks against public health, and detained in a preventive manner, because he allegedly had admitted supporting the *Movimiento al Socialismo* (MAS), had used WhatsApp groups to "misinform"; had referred to the government as a "tyrant" and "dictator"; and had urged the people to protest¹⁹⁸.

F. Legal Reforms

135. Supreme Decrees No. 4199, of March 21, and No. 4200, of March 25, approved by the Government to establish measures against the spread of COVID-19, included a restrictive provision of freedom of expression, which generated concern in civil society, since its broad wording could enable the authorities to prosecute those who criticize the public policies adopted regarding the pandemic¹⁹⁹. The provision, contained in point II of article 13 of Decree No. 4200 and in point II of article 7 of Decree No. 4199, establishes that "persons who incite non-compliance with this Supreme Decree or misinform or generate uncertainty to the population, will be subject to a criminal complaint for committing crimes against public health". Supreme Decree No. 4231, of May 7, modified the wording of that provision, which went on to specify that those who "disseminate information of any kind, whether in writing, printed, artistic, and/or by any other procedure, which put at risk or affect public health, generating uncertainty in the population, will be subject to charges for the commission of crimes typified in the Criminal Code". The new wording did not correct the issues and caused alarm in journalists and national and international human rights organizations, who through press releases and social networks expressed their concern about the negative effect of the Decree on freedom of expression and information²⁰⁰. On May 14, the Government, through Supreme Decree 4236, repealed the restrictions on freedom of expression contained in the three mentioned decrees. "At the request of human rights organizations and the media, we have repealed the articles of decrees that created susceptibility to freedom of the press. We respect and defend freedom, just as we defend and respect democracy", informed the Minister of Government, Arturo Murillo, in a message on Twitter²⁰¹.

G. Censorship

136. The Minister of Public Works, Iván Arias, warned that people who spread false news about the health emergency caused by COVID-19 would be taken to hospitals to help care for infected patients and, in addition, they would be imprisoned for 10 years. "With the Ministry of Government, we are going to 'catch' these criminals who spread (false) news who only generate anxiety," said Arias²⁰². Likewise, the Minister of

¹⁹⁷ Página Siete. June 16, 2020. [Murillo acusa a radios comunitarias de «soliviantar» el terrorismo.](#)

¹⁹⁸ Human Rights Watch (HRW). September 11, 2020. [Bolivia: Abuso del sistema de justicia para perseguir a opositores.](#)

¹⁹⁹ Official Gazette of Bolivia. [Decreto Supremo 4199](#), March 21, 2020 and [Decreto Supremo 4200](#), March 25, 2020; Committee to Protect Journalists (CPJ). April 9, 2020. [Bolivia enacts decree criminalizing 'disinformation' on COVID-19 outbreak](#); Human Rights Watch (HRW). April 7, 2020. [Bolivia: COVID-19 Decree Threatens Free Expression](#); IACHR. Twitter account of the Office of the Special Rapporteur for Freedom of Expression. (@RELE_CIDH). [April 11, 2020.](#)

²⁰⁰ Erbol. May 10, 2019. [Añez amplía alcance de dos decretos contra la desinformación por Covid-19](#); Página Siete. May 11, 2020. [Gobierno penaliza la «desinformación» en medios impresos y artísticos](#); Twitter account of José Miguel Vivanco (@JMvivancoHRW). [May 11, 2020](#); Committee to Protect Journalists (CPJ). May 14, 2020. [Bolivian decree broadens criminal sanctions for disinformation on COVID-19](#); La Razón. May 13, 2020. [DDHH de la ONU pide modificar el Decreto 4231 'para no criminalizar la libertad de expresión'.](#)

²⁰¹ Correo del Sur. May 14, 2020. [El Gobierno retrocede y deroga artículos de decretos cuestionados por vulnerar la libertad de expresión](#); Infobae. May 14, 2020. [Bolivia deroga polémico decreto que limitaba la libertad de expresión](#); ANP. May 15, 2020. [Gobierno deroga la norma que vulneraba la libertad de expresión.](#)

²⁰² Correo del Sur. May 14, 2020. [El Gobierno retrocede y deroga artículos de decretos cuestionados por vulnerar la libertad de expresión](#); Infobae. May 14, 2020. [Bolivia deroga polémico decreto que limitaba la libertad de expresión](#); ANP. May 15, 2020. [Gobierno deroga la norma que vulneraba la libertad de expresión.](#)

Government, Arturo Murillo, announced the implementation of "cyber patrol" to detect those who misinform through social networks about the coronavirus. After the government announcement, the Ombudsman's Office warned that "cyber-patrolling" could lead to criminal prosecutions that would be contrary to freedom of expression, enshrined in national and international human rights standards²⁰³. On April 15, Minister Murillo reported that "67 political actors who have been attacking health, waging virtual war, and destabilizing movements had been identified and apprehended by the Prosecutor's Office"²⁰⁴.

137. The executive general director of the Bolivian Football Federation (FBF), Freddy Téllez, announced his resignation on June 18, considering his right to freedom of expression had been affected, after receiving that day an instruction from the president of the Federation, César Salinas, who informed all the area directors, coordinators, and staff of the FBF that it was "strictly forbidden to hold press conferences on the current situation that soccer is going through" in Bolivia²⁰⁵.

138. On August 9, the state channel *Bolivia Tv* interrupted the transmission of a meeting within the framework of the "Dialogue for Life" initiative, at the moment when a candidate questioned President Jeanine Áñez. The meeting sought to define, among other things, the date of the next elections²⁰⁶.

139. The Ombudsman's Office reported that it is investigating a complaint filed by the Abya Yala Workers' Union about an alleged restriction on the operation of the channel by the Telecommunications and Transportation Regulation and Supervision Authority (ATT), by omitting the authorization of the License of Added Value, which prevents the media from being part of the cable signal grid in the city of La Paz. Likewise, the ATT would have issued an order to cable operators to require national channels to present said license, and since they did not have it, that channel was eliminated from the grid, affecting their operations and the payment of social security contributions in favor of their employees. "This case draws attention, if the ATT's delay in responding to the license request is verified, it would become a flagrant violation of freedom of expression, since legal means and state control would be generating a real limitation to the work of Abya Yala," said the Ombudsman, Nadia Cruz²⁰⁷.

H. Freedom of expression in electoral contexts

140. The Deputy Minister of the Interior and Police, Javier Issa, reported on August 31 that the Government decided to reactivate the Anti-Terrorist Group (GAT), under the Police, with the aim of containing possible demonstrations and riots that would arise as a result of the elections of the October 18." I do not know who will win in the general elections, but I do not believe that the MAS (*Movimiento al Socialismo*) will win and after the elections I believe that it will try to activate everything it has to destabilize the country," declared Issa²⁰⁸.

141. On September 24 in the city of Cochabamba, journalist Edwin Soria, from the *Univalle* television channel, suffered first and second degree burns on his hand after being hit by a burning coal, while covering a confrontation between political sectors related to the MAS and *Unidad Nacional*. The leader of the Press Federation, David Ovando, described the act as "cowardly" and announced that he would file a complaint with the Prosecutor's Office and Human Rights Ombudsman against those responsible for the injuries²⁰⁹.

²⁰³ Twitter account of La Razón digital (@LaRazon_Bolivia). [March 18, 2020](#); Defensoría del Pueblo. March 19, 2020. [LA DEFENSORÍA DEL PUEBLO ALERTA QUE EL "CIBERPATULLAJE EN REDES SOCIALES" PODRÍA DERIVAR EN PERSECUCIONES PENALES CONTRARIAS A LA LIBERTAD DE EXPRESIÓN.](#)

²⁰⁴ Twitter account of La Razón (@La_Razon). [April 15, 2020](#); Página Siete. April 15, 2020. [Aprehenden a 67 activistas políticos por hacer "guerra virtual".](#)

²⁰⁵ ANP. June 24, 2020. [Dirigente deportivo renuncia en protesta por censura informativa](#); Los Tiempos. June 18, 2020. [Freddy Téllez renuncia como Director Ejecutivo de la FBF tras instructiva de César Salinas.](#)

²⁰⁶ Los Tiempos. August 9, 2020. [El canal estatal corta transmisión cuando candidata increpó a Presidenta](#); La Prensa. August 8, 2020. [El canal estatal corta transmisión cuando candidata increpó a Presidenta.](#)

²⁰⁷ Defensoría del Pueblo. September 7, 2020. [DEFENSORÍA DEL PUEBLO INVESTIGA POSIBLE VULNERACIÓN A LA LIBERTAD DE EXPRESIÓN DE ABYA YALA POR PARTE DE LA ATT](#); Radio RKM. September 7, 2020. [Defensoría del Pueblo investiga posible vulneración a la libertad de expresión de Abya Yala por parte de la ATT.](#)

²⁰⁸ Página Siete. August 31, 2020. [Perfilan plan antiterrorista ante riesgo de convulsión](#); Radio Global Sucre. August 30, 2020. [Gobierno prevé que el MAS generará conflictos sociales luego de las elecciones.](#)

²⁰⁹ ANP. September 30, 2020. [Periodista sufre quemaduras tras ataque con carbón ardiente.](#)

142. The journalist from the *Gigavisión* television network, Rimar Bejarano, was attacked on September 26 by MAS sympathizers while covering a proclamation ceremony for the candidates Luis Arce and David Choquehuanca in the city of Sucre. Bejarano filed a complaint with the Departmental Electoral Tribunal (TED) of Chuquisaca²¹⁰. Following the attack, the Bolivian National Press Association (ANP) demanded that the presidential candidates, through a public message, call on their militants to stop the attacks on journalists in the electoral campaigns²¹¹.

143. On October 19, the political alliance Creemos called a press conference and upon arrival the press team of the *Red Unitel* was the victim of verbal attacks and threats by alleged sympathizers of that political force. Subsequently, the Creemos communication team made a public apology and stated that the attackers were not part of its political structure²¹².

144. Journalists Bertha Portal Pimentel and Sonia Sánchez, from the *La Voz del Campesino* community radio station in the city of Tarija, were detained for four hours at a police station during the general elections on October 18. The arrest occurred after both tried to prevent the retention of the vehicle in which they were transported. Both denounced that they were victims of physical aggression by the troops and that their work equipment was damaged²¹³.

145. At least fifteen journalists from the city of Cochabamba suffered physical attacks and intimidation during journalistic coverage of blockades carried out by sectors that questioned the results of the general elections of October 18. The Federation of Press Workers of Cochabamba filed a complaint with the Prosecutor's Office for the events that occurred between the end of October and the first days of November²¹⁴.

I. Access to public information

146. The Departmental Ministerial Health Authority communicated on April 23 to the director of the health centers in the department of Beni that only he and the ministerial authority would be official spokespersons on the situation of COVID-19 in the department, and that the health or administrative staff who provide information to the press should be administratively sanctioned. Likewise, it ordered the initiation of criminal proceedings against people who "indiscriminately and irresponsibly circulate information on social networks"²¹⁵.

147. In the framework of the 177^o Period of Sessions, the IACHR and its Office of the Special Rapporteur received information from a group of civil society organizations about the situation of the right of access to public information and institutional transparency in Bolivia.²¹⁶ According to the organizations requesting the hearing, although the country has formally guaranteed this right in its Constitution and in various international treaties that are part of the constitutionality bloc, this is not enough in the face of multiple and varied threats. In this sense, they stated that to date not only has a law on access to public information not been enacted, but also the provisions of the Constitution that establish that human rights in Bolivia have direct application and do not require development laws are not being complied with. On this point, the organizations indicated that any request for public information is systematically denied on the grounds that there is no specific procedure that regulates the right of access to public information. For their part, the representatives of the State had no qualms and recognized that access to information is an essential element to promote justice and the fight against corruption. In this sense, they recognized that there are tasks to be fulfilled, and that there are structural issues that must be resolved by the incoming government as of the

²¹⁰ Clave 300. September 28, 2020. [Periodista agredido en marcha del MAS denuncia agresión ante el Órgano Electoral](#); Opinión. September 27, 2020. [Diarios exigen cese de agresiones a periodistas en campañas electorales](#).

²¹¹ Opinión. September 27, 2020. [Diarios exigen cese de agresiones a periodistas en campañas electorales](#).

²¹² El Deber. October 20, 2020. [Simpatizantes de Creemos agreden a periodistas](#); ANP. October 20, 2020. [Equipo de Tv es agredido en casa de campaña](#); Bolivia. October 20, 2020. [Simpatizantes de Creemos agreden a un equipo de prensa en Santa Cruz](#).

²¹³ ANP. October 21, 2020. [Dos periodistas fueron detenidas en Tarija](#); Ahora Digital. October 21, 2020. [Dos periodistas fueron detenidas en Tarija](#); Prensa Latina. October 18, 2020. [Periodistas bolivianas denunciaron agresión y detención policiales](#).

²¹⁴ Los Tiempos. November 1, 2020. [Condenan agresiones a trabajadores de la prensa en los bloqueos; tensión en la Felcc](#); Opinión. November 4, 2020. [Prensa formaliza denuncia contra grupos](#); ANP. November 16, 2020. [Cochabamba: 15 periodistas sufrieron agresiones físicas y amedrentamiento](#).

²¹⁵ Resolution available at: Archive of the Special Rapporteurship for Freedom of Expression; Red País. April 23, 2020. [Gobierno de Añez prohíbe entregar información a la prensa sobre Covid-19 de Beni bajo amenaza de sanciones y juicios penales](#); El Deber. April 26, 2020. [Allanan el Sedes de Beni y dos centros hospitalarios por presuntos delitos contra la salud](#).

²¹⁶ IACHR. 174 Period of Sessions. October 8, 2020. [Situación de la independencia judicial y acceso a la información durante la pandemia](#).

October elections. During the hearing, the Office of the Special Rapporteur, through its Rapporteur Pedro Vaca, indicated its availability for technical cooperation on this issue, although it warned that the law by itself will not solve all problems. For example, to advance in active transparency policies, technology, internet access, and digital literacy are required, aspects on which there are deficits that must be addressed.

J. Government advertising

148. According to the information received, after the dissemination of several investigations and reports on alleged cases of corruption that would involve government officials, the Minister of Communication, Isabel Fernández, ordered the interruption of government advertising to the *Red Gigavisión* media²¹⁷.

149. In the framework of a lawsuit initiated by the television station PAT (*Periodistas Asociados Televisión*), on June 29, the first chamber of the Constitutional Court of the Court of Justice ordered the Vice Ministry of Communication and the Ministry of the Presidency to guarantee, in the adjudication of government advertising in the media, “the participation of the greatest number of media”, with adjudication processes “where they can be treated on equal terms” and that are “transparent in order to guarantee the right of expression”²¹⁸.

K. Other relevant situations

150. According to a survey carried out within the framework of the Scenario Analysis and Dialogue project, promoted by the Friedrich Ebert Foundation, the majority of Bolivians believe that the Government exercises political persecution and uses the health emergency to criminalize dissent and freedom of expression. The study was carried out between June 1 and 17 with the participation of political actors, analysts, journalists, and different specialists. 78.68% of those surveyed believed that the Government exercises political persecution (16.18% answered no and 5.15% did not know). Regarding whether the Government uses the health emergency to criminalize dissent and freedom of expression, 41.91% said they strongly agree, 29.41% agree, 9.56% strongly disagree, and 18.38% disagree²¹⁹.

151. On November 1, the Police allegedly aggressively evicted a performance carried out by the groups *Teatro de los Andes*, *Teatro El Animal*, and *the Centro Juana Azurduy*, at the gates of the Sucre general cemetery, in memory of the victims of femicide. Despite the fact that the activity had permits from the Mayor's Office, about 30 members of the Police Operations Tactical Unit interrupted it, cut off the sound, and tussled with some of the women present who tried to carry on with the performance. They also dumped water with a tanker on the artists²²⁰.

152. Journalist Casimira Lema, whose home was burned in the incidents that occurred in November 2019, when then-President Evo Morales resigned to his mandate, was the target of hollering and harassment when she gave her testimony before the Group of Experts of the Inter-American Commission on Human Rights (IACHR) in La Paz, on November 25. A group of people who attended the collection of testimonies shouted at the journalist's statement, accusing her of lying and of being “part of the coup”²²¹.

153. This Office continues to observe a pattern of attacks, threats, and disqualifications against media workers as a consequence of the exercise of their profession. In addition, during 2020, situations of excessive use of force in the context of social demonstrations were observed, as well as attacks on journalists who were covering the events. Additionally, the Office of the Special Rapporteur documented obstacles to journalism derived from the measures established by the Government of Bolivia in the context of the pandemic. On the other hand, a regulatory deficit, and a lack of proactive public policies on access to public information and

²¹⁷ Detrás de la Verdad / Facebook. May 11, 2020. [Tras investigaciones y reportajes ministra de Comunicación ordena cortar publicidad a RED GIGAVISION](#); Página Siete. May 12, 2020. [Arias denuncia que Gobierno le quitó la publicidad a Gigavisión, Ministra asegura que fue por su bajo rating](#).

²¹⁸ Opinión. June 30, 2020. [La Justicia decide que el Gobierno distribuya la publicidad de forma “equilibrada”](#); Los Tiempos. June 30, 2020. [Fallo constitucional pone fin a la pauta publicitaria discrecional](#).

²¹⁹ Página Siete. June 26, 2020. [Estudio: Gobierno ejerce persecución política y usa emergencia para penalizar disidencia](#).

²²⁰ La Razón. November 2, 2020. [La Policía interrumpe de forma agresiva performance dedicada a víctimas de femicidio](#); Esencia Latina. November 3, 2020. [#OcurrioElFinDeSemana #Sucre #UTOP](#).

²²¹ El Potosí. November 25, 2020. [Gritos interrumpen a Casimira Lema cuando pedía justicia ante el Grupo de Expertos de la CIDH](#); ANP. November 25, 2020. [Interrumpen declaración de periodista que denunciaba quema de su casa ante la CIDH](#).

transparency in accordance with current standards on the matter continue to be observed. In view of this, this Office considers it vitally important to remind the State that:

154. **Attacks and aggressions committed against journalists and against the press violate the right to freedom of expression both in its individual and collective dimensions and cannot be tolerated in a democratic society.** The Office of the Special Rapporteur Principle reminds that 9 of the Declaration of Principles on Freedom of Expression of the IACHR states that “[t]he murder, kidnapping, intimidation of, and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of States to prevent and investigate such occurrences, to punish their perpetrators, and to ensure that victims receive due compensation.”

155. **Social protest, which includes the rights to peaceful assembly without arms, association, and freedom of expression, is a fundamental tool in the defense of democracy and human rights.** In this sense, it has been indicated that “the criminalization in itself of demonstrations in public streets when they are carried out within the framework of the right to freedom of expression and the right to assembly is in principle inadmissible”.²²² The Office of the Special Rapporteur recalls that it is the duty of the State to guarantee the exercise of the right to protest and that no participant may be subjected to illegal or arbitrary detention. States must refrain from engaging in practices of mass, collective, or indiscriminate detentions in public demonstrations. Likewise, they must bear in mind especially that freedom of expression protects the right to record and disseminate any incident, and that they must provide journalists with the highest degree of protection so that they can carry out their work freely and keep society informed about matters of high public interest. Finally, this Office reiterates that the protection of the right to freedom of expression requires that the authorities ensure the necessary conditions for journalists to be able to cover events of notorious public interest, such as those related to social protests.

156. **Public authorities are called upon to maintain a speech favorable to public deliberation and freedom of expression.** The Office of the Special Rapporteur reiterates that public officials have the duty to ensure that their statements are not infringing on the rights of those who contribute to public deliberation by expressing and disseminating their thoughts, such as journalists, the media, and human rights organizations, and they must be aware of the context in which they express themselves. According to the Inter-American Court of Human Rights, these types of statements made by public officials could constitute an indirect restriction on the right to freedom of expression.²²³

157. **The use of criminal mechanisms to punish speech on matters of public interest, especially related to public officials, is incompatible with inter-American standards.** The IACHR has repeatedly maintained that the application of criminal law to sanction expressions referring to public officials is disproportionate when it comes to protected speech, such as information or expression on matters of public interest and violates the right to freedom of expression.

158. **The distribution of government advertising must be guided by democratic criteria and pre-established, public, and transparent procedures that guarantee conditions of equal opportunities.** The Office of the Special Rapporteur recalls that the Declaration of Principles on Freedom of Expression of the IACHR, in its principle 13, indicates that “the exercise of power and the use of public funds by the state, the granting of customs duty privileges, the arbitrary and discriminatory placement of official advertising and government loans; the concession of radio and television broadcast frequencies, among others, with the intent to put pressure on and punish or reward and provide privileges to social communicators and communications media because of the opinions they express threaten freedom of expression, and must be explicitly prohibited by law.”

159. **Transparency and accountability of public powers strengthen democratic systems.** In this sense, Principle 4 of the IACHR Declaration of Principles on Freedom of Expression establishes that “[a]ccess to information held by the State is a fundamental right of every individual. States have the obligation to guarantee the full exercise of this right. This principle allows only exceptional limitations that must be

²²² IACHR. [Report on Citizen Security and Human Rights](#). OEA/Ser.L/V/II.Doc. 57. December 31, 2009. Par. 197

²²³ I/A Court H. R. [Case Ríos et al v. Venezuela. Preliminary Objections, Merits, Reparations and Costs](#). Judgment of January 28, 2009. Serie C No.194. Par. 139.

previously established by law in case of a real and imminent danger that threatens national security in democratic societies.” The IACHR and the Office of the Special Rapporteur have called on States to guarantee the exercise of the right to freedom of expression and access to information during the pandemic, and to guarantee the transcendental role played by the press in the context of an emergency, by reporting on critical points and monitor government actions. The restriction of journalists to access press conferences, the creation or use of criminal figures to sanction the dissemination of ideas and information classified as false, and digital cyber-patrol measures can affect fundamental freedoms²²⁴. Likewise, the IACHR and its Office of the Special Rapporteur recall in a special way that, based on the obligation of active transparency, States must proactively provide truthful and reliable information on all aspects of public interest related to the pandemic, in open formats and in a manner accessible to all. Given the existence of the digital divide, States must find effective ways to fulfill the obligation of active transparency in such circumstances.²²⁵

BRAZIL

160. In 2020, the context of hostility toward journalism and the free functioning of the media intensified in Brazil. President Jair Bolsonaro has continued using stigmatizing language toward the media, including verbal attacks and threats, especially against women journalists. According to reports from several civil society organizations, this has encouraged his followers to carry out physical attacks against journalists, some of them while they were covering protests. Likewise, multiple social media attacks and threats against journalists and their families have been documented. The Office of the Special Rapporteur notes with concern the increase in criminal prosecutions of journalists, which in some cases have included the application of the national security law and the use of court orders to censor reporting. Lastly, this Office has documented severe restrictions on the right to access to information during the pandemic, as regards both requests for access and the State’s duty of transparency.

A. Stigmatizing statements

161. During 2020, the Office of the Special Rapporteur documented an increase in stigmatizing language toward the media used by President Jair Bolsonaro, including verbal aggression and threats. Relatives of the president who hold public office and other public officials have also attacked the media on several occasions. According to the Federação Nacional dos Jornalistas (FENAJ), 299 attacks on the media by President Bolsonaro were documented between January and September.²²⁶ According to reports from several civil society organizations,²²⁷ this has encouraged his followers to attack journalists, both physically—while they covered protests—and over social media, through multiple attacks and threats.²²⁸ RSF also notes that these attacks on the media aim to “encourage and sustain mistrust of the work journalists do, undermining their credibility and little by little constructing a common enemy.”²²⁹

162. For its part, the organization Article 19 monitored the statements of the president, his children, and other public officials between January 2019 and September 2020. It documented 449 attacks and aggressions against communicators, including stigmatizing statements, attempts to discredit the work of the media, and the release of journalists’ personal information, leading to mass attacks on their social media accounts. Of the 449 attacks documented, around 102 were from President Bolsonaro via social media, press conferences, speeches, and interviews, among other avenues. Likewise, Bolsonaro’s children, who hold public offices, where the perpetrators of around 220 attacks.²³⁰

²²⁴ IACHR. Special Rapporteurship for Freedom of Expression. April 18, 2020. [Press release R78/20. IACHR and its SR FOE express concern about restrictions on freedom of expression and access to information in States’ response to the COVID-19 pandemic.](#)

²²⁵ IACHR. Special Rapporteurship for Freedom of Expression. April 18, 2020. [Press release R78/20. IACHR and its SR FOE express concern about restrictions on freedom of expression and access to information in States’ response to the COVID-19 pandemic.](#)

²²⁶ Federação Nacional dos Jornalistas (FENAJ). October 14, 2020. [Em nove meses, Bolsonaro cometeu 299 ataques ao jornalismo.](#)

²²⁷ Article 19. [Freedom of Speech and Press face the greatest threat of the democratic period in Brazil.](#) June 2, 2020; Abraj. August 23, 2020. [Abraji condena ameaça de Bolsonaro de agressão física a jornalista.](#)

²²⁸ Globo. [Profissionais de imprensa são agredidos durante manifestação antidemocrática com a presença de Bolsonaro.](#) May 3, 2020; FENAJ. [Sindjors e FENAJ repudiam agressão de jornalistas por apoiadores de Bolsonaro.](#) April 20, 2020; Sindicato dos Jornalistas Profissionais do Distrito Federal. [Nota de repúdio a novos ataques de apoiadores de Bolsonaro contra jornalistas.](#) May 25, 2020.

²²⁹ RSF. April 16, 2020. [Análisis trimestral de Brasil. Cómo el presidente Jair Bolsonaro, intenta acallar metódicamente a la prensa crítica.](#)

²³⁰ Artículo 19. September 17, 2020. [Bolsonaro, familia e ministros já cometeram 449 ataques contra jornalistas, diz ONG.](#)

163. Additionally, according to a study by *Aos Fatos*, President Jair Bolsonaro had issued 1682 false or misleading statements, an average of 4.3 per day. Forty-one point six percent of his statements involved misleading information on the coronavirus. For example, the president promoted remedies and treatments whose efficacy was not proven, defending the use of hydroxychloroquine on at least 28 occasions.²³¹

164. During the public hearing held on October 6 during the 177th Period of Sessions of the IACHR, Special Rapporteur Pedro Vaca recalled that the State has an obligation to foster an environment that welcomes public discussion and warned that stigmatizing speech coming from the most senior State authorities can lead to self-censorship, especially among journalists and activists.²³²

165. The Office of the Special Rapporteur notes with concern that the attacks on the media have been directed mainly at women journalists. This office learned of a March 13 report from the Associação Brasileira de Jornalismo Investigativo (Abraji) requested by the United Nations analyzing the situation of women journalists in the country. The report found that they have been subjected to misogynist and machista attacks, the publicizing of their personal information, and the discrediting of their work. The document lists at least 20 attacks against women journalists between January 2019 and February 2020, including 16 attacks perpetrated by public officials directly.²³³ During the 44th session of the United Nations Human Rights Council, held on January 7, 2020, journalist Bianca Santana reported that women journalists had been attacked by President Jair Bolsonaro or other public officials at least 54 times since the start of his term.²³⁴

166. This Office was informed during the public hearing held on October 6 during the 177 Period of Sessions of the IACHR of the situation of journalist Patricia Campos Mello, a reporter with São Paulo's *Diário Folha*. On February 11, 2020, Hans River do Nascimento, a former employee of one of the digital marketing companies that have been implicated, testified before a Parliamentary Committee on the Investigation of Fake News and made accusations of a sexual nature against Campos Mello, which she denied.²³⁵ Deputy Eduardo Bolsonaro, the president's son, stated at that time that he had no doubt about what Hans River do Nascimento had alleged and then published it on social media.²³⁶ Later, President Bolsonaro repeated the accusations, saying the journalist wanted an exclusive about him at any cost, using a word that is a double entendre in Portuguese.²³⁷ The statements led to an online harassment campaign against the journalist, including misogynist threats and insults. Regarding this, during the aforementioned hearing, Campos Mello said that Internet memes had been circulating since February with her face pasted into pornographic images, and she was called a prostitute.²³⁸

167. The journalist had already been the victim of attacks, insults, and threats on social media after she reported on the 2018 election campaign on the use of WhatsApp for the purposes of spreading disinformation, as described by the Office of the Special Rapporteur in its 2018 Annual Report.²³⁹

168. According to the information available, on February 8 outside Alvorada Palace, President Bolsonaro criticized the media and made an obscene gesture toward the journalists.²⁴⁰ On March 4, the journalists asked the president about the country's gross domestic product; he had a comedian impersonator answer for him. The comedian also handed out bananas to the journalists.²⁴¹

²³¹ Aos Fatos. January 5, 2021. [Em dois anos de governo, Bolsonaro deu ao menos três declarações falsas ou distorcidas por dia.](#)

²³² IACHR. 177 Period of Sessions. October 6, 2020. [Libertad de Expresión en Brasil.](#)

²³³ Associação Brasileira de Jornalismo Investigativo (Abraji). 13 de marzo de 2020. [Abraji faz levantamento sobre violência a mulheres jornalistas.](#)

²³⁴ Intervozes. July 7, 2020. [Ataques do governo Bolsonaro a mulheres jornalistas são denunciados ao Conselho de Direitos Humanos da ONU nesta terça-feira](#); Brasil de Fato. July 15, 2020. [Denuncian ataques de Bolsonaro contra periodistas mujeres ante la ONU.](#)

²³⁵ Folha de Sao Paulo. February 11, 2020. [Ex-funcionário de empresa de disparo em massa mente a CPI e insulta repórter da Folha.](#)

²³⁶ Twitter account of Eduardo Bolsonaro (@BolsonaroSP). [February 11, 2020](#); Reporters Without Borders (RSF). February 12, 2020. [RSF denounces inflammatory comments about journalist by Brazilian deputy.](#)

²³⁷ El País. February 18, 2020. [Jair Bolsonaro retoma credencial machista com insinuação sexual contra jornalista](#); Correio Braziliense. February 18, 2020. [Bolsonaro, sobre repórter da Folha: 'Ela queria dar um furo': jornal reagiu.](#)

²³⁸ IACHR. 177 Period of Sessions. October 6, 2020. [Libertad de Expresión en Brasil.](#)

²³⁹ IACHR. [Annual Report 2018. Report of the Office of The Special Rapporteur for Freedom of Expression.](#) Chapter II (Evaluation of the State of Freedom of Expression in the Hemisphere). OEA/Ser.L/V/II. Doc. 30. March 17, 2019. Par. 198-199.

²⁴⁰ Veja. February 8, 2020. [Bolsonaro dá 'banana' para jornalistas e reclama da imprensa](#); Folha de Sao Paulo. February 8, 2020. [Bolsonaro se queixa da imprensa e faz gesto de banana para jornalistas.](#)

²⁴¹ Reuters. March 4, 2020. [Double take as Brazil's Bolsonaro hams it up with impersonator](#); O Tempo. March 4, 2020. [Bolsonaro coloca humorista para distribuir bananas a jornalista.](#)

169. On March 24, in a nationally televised speech, President Bolsonaro called COVID-19 a “slight cold” and accused “a large portion of the media” of spreading “feelings of fear” and disseminating “the perfect script (...) for spreading hysteria” in the country.²⁴² Similarly, on March 28, the health minister at the time, Luiz Henrique Mandetta, met with journalists and said Brazilians should “turn off the TV a little bit,” as sometimes it is “too toxic,” adding that the media were “sordid.”²⁴³

170. On April 22, President Jair Bolsonaro stated outside Alvorada Palace that he would not speak to the press because they “make everything up,” calling them “scoundrels.” He later posted a video with his comments on Twitter, reaffirming that the media “makes things up” and “exaggerates.”²⁴⁴ Also, on May 5, President Jair Bolsonaro criticized the newspaper *Folha de São Paulo*, accusing them of being “scoundrels” and publishing lies. In response to journalists’ questions about changes to the Federal Police, the president told them to “shut your mouths.”²⁴⁵

171. As reported during the IACHR’s October 6 public hearing, on May 18, the president of the Palmares Cultural Foundation, a public body whose mission is to promote the preservation of cultural, social, and economic values arising from the influence of black culture, posted a tweet attacking the journalist Pedro Borges, cofounder of the *Alma Preta* news agency, calling him as a “defender of bandits,” “segregationist,” and “racist.”²⁴⁶

172. Additionally, during a live stream on YouTube on May 28, the president accused journalist Bianca Santana of spreading “fake news” after she published an article in *UOL* alleging a connection between Bolsonaro and the murder of Marielle Franco. The journalist denounced this situation, saying his statements put her and her three children in danger.²⁴⁷ Two months later, the president apologized for his statements.²⁴⁸ In response to the situation, the journalist filed a lawsuit for nonpecuniary damages, and on December 10, Judge César Augusto Vieira Macedo of the 31st Central Civil Court of São Paulo found in her favor and ordered the president to pay the journalist compensation of 10,000 reais.²⁴⁹

173. On August 23, President Jair Bolsonaro ignored a question from a *Globo* journalist about his wife during a visit to the Brasilia Cathedral, answering instead with a grave threat of physical violence: “what I want is to shut your mouth with a beating.”²⁵⁰ The IACHR Special Rapporteur at the time called it “the grossest example of hostility of a senior official toward the media and of exposing a journalist to violence.”²⁵¹

174. On August 24, President Bolsonaro posted a tweet sharing a video of journalist Maria Júlia (Maju) Coutinho covering a meeting on COVID-19 and saying that government authorities had not paid homage to the victims or their families. The president commented on the video: “*Globo* lying, as always.” This led to the journalist receiving a large number of threats and insults on social media, with the hashtag “MajuMentirosa” used at least 33,000 times.²⁵²

²⁴² Reporters Without Borders (RSF). March 31, 2020. [Brazil’s president attacks media instead of combatting coronavirus](#); BBC. March 25, 2020. [Coronavírus: o que diz a Ciência sobre 6 pontos do discurso de Bolsonaro](#).

²⁴³ Associação Nacional de Jornais (ANJ). March 30, 2020. [‘Às vezes os meios de comunicação são sórdidos’, diz Mandetta sobre cobertura do coronavírus](#); Folha de São Paulo. March 28, 2020. [‘Às vezes os meios de comunicação são sórdidos’, diz Mandetta sobre cobertura do coronavírus](#)

²⁴⁴ Twitter account of Jair M. Bolsonaro (@jairbolsonaro). [April 22, 2020](#); Correio Braziliense. April 22, 2020. [Irritado, Bolsonaro volta a atacar a imprensa: “Inventam e aumentam”](#).

²⁴⁵ Folha de São Paulo. May 5, 2020. [Bolsonaro manda repórteres calarem a boca, ataca a Folha e nega interferência na PF](#); Brasil 247. May 5, 2020. [Bolsonaro manda jornalistas calarem a boca e chama Folha de jornal patife e mentiroso](#).

²⁴⁶ IACHR. 177 Period of Sessions. October 6, 2020. [Libertad de Expresión en Brasil](#); Sindicato dos Jornalistas Profissionais no Estado de São Paulo (SJSJ). May 19, 2020. [SJSJ repudia ataques proferidos pelo presidente da Fundação Cultural Palmares, Sérgio Camargo, contra jornalista](#).

²⁴⁷ The Guardian. June 22, 2020. [Jair Bolsonaro accused me of spreading ‘fake news’. I know why he targeted me](#).

²⁴⁸ Twitter account of Bianca Santana (@biancasantana). [July 30, 2020](#).

²⁴⁹ Diário de Justiça do Estado de São Paulo (DJSP). [December 14, 2020](#). Página 585; Metrôpoles. December 11, 2020. [Juiz condena Bolsonaro a indenizar colunista por acusação de fake news](#).

²⁵⁰ Brasil de Fato. August 24, 2020. [“Minha vontade é encher tua boca na porrada”: denúncia no STF e um milhão de tuítes](#); UOL. August 23, 2020. [Bolsonaro diz a repórter: ‘Minha vontade é encher tua boca com uma porrada’](#); Abraj. August 23, 2020. [Abraji condena ameaça de Bolsonaro de agressão física a jornalista](#).

²⁵¹ Twitter account of Edison Lanza (@EdisonLanza). [August 24, 2020](#).

²⁵² Marie Claire. August 25, 2020. [Maju Coutinho é ataca por bolsonaristas na web e chamada de mentirosa](#); Twitter account of Jair M. Bolsonaro (@jairbolsonaro). [August 24, 2020](#).

175. Additionally, on September 22, during the 75th UN General Assembly, in discussing the coronavirus pandemic, President Bolsonaro accused the Brazilian media of "politicizing the virus," "spreading panic among the population," and "bringing social chaos to the country."²⁵³

176. On December 8, the Military Police of Río de Janeiro posted a video on its twitter account criticizing the work of journalist Rafael Soares published in *Extra* and *O Globo* after the journalist published an article on the alleged increase in the use of munitions by the 15th BPM of Caixas. The video accuses him of having done a report that was "malicious," "irresponsible," "cowardly," "lying," and "unscrupulous," leading to numerous attacks on the journalist on social media. According to the information available, the next day, the lieutenant colonel who appeared in the video was removed from the position of spokesperson.²⁵⁴

177. On December 18, President Jair Bolsonaro attacked the media during a speech at an event with the Military Police of Río de Janeiro, calling them "liars," "a fake news machine," and "an international embarrassment," adding that the media are not "on the side of truth, honor, and the law."²⁵⁵

B. Attacks, arrests, threats, and harassment perpetrated against journalists and media outlets.

178. In 2020, the context of hostility toward journalism and the free functioning of the media intensified in Brazil. Civil society organizations report²⁵⁶ that the stigmatizing statements by senior authorities have encouraged Bolsonaro's followers to carry out physical attacks against journalists, some of them while they were covering protests. According to the Federação Nacional dos Jornalistas (FENAJ), 428 incidents of violence against journalists and the media in general were documented during 2020, an increase of 105.77% compared to the previous year. According to the report, 152 cases of attempts to discredit the media were documented, and President Jair Bolsonaro was identified as the attacker in 175 cases.²⁵⁷ The following are some of the cases reported to this Office of the Special Rapporteur during this year.

179. This Office was informed of multiple attacks and threats against journalists and their families using social media and instant messaging applications. Examples of this include the aforementioned cases of journalists Patricia Campos Mello and María Júlia (Maju) Coutinho. According to Article 19, 2020 saw an increase in online violence: of the 160 violations documented during the first half of 2020, 85 of them were digital in nature.²⁵⁸

180. According to the information available, on April 19, demonstrations were held in multiple cities demanding military intervention, and journalists and media workers covering the events were subjected to aggression.²⁵⁹ Likewise, on May 3, several journalists and photographers covering a demonstration in support of President Bolsonaro were attacked by individuals presumed to be his supporters. *O Estado de S. Paulo* photographer Dida Sampaio was twice knocked off a small ladder from which he was taking photos and physically and verbally assaulted. *O Estado de S. Paulo* driver Marcos Pereira, *Folha de S. Paulo* reporter Fabio Pupo, *Poder 360* reporter Nivaldo Carboni, and photographer Orlando Brito were also attacked.²⁶⁰

²⁵³ Presidencia de la República. September 22, 2020. [Discurso do Presidente da República, Jair Bolsonaro, na abertura da 75ª Assembleia Geral da Organização das Nações Unidas \(ONU\)](#).

²⁵⁴ Abraj. December 9, 2020. [Abraji condena ataque da PMRJ contra o repórter Rafael Soares](#); Correio Braziliense. December 9, 2020. [PM do Rio usa vídeo nas redes para atacar jornalista após denúncia publicada](#); UOL. December 9, 2020. [Rio: porta-voz da PM é exonerada após atacar repórter em vídeo](#)

²⁵⁵ El País. December 19, 2020. [Jair Bolsonaro se lanza duro contra la prensa "mentirosa" de Brasil](#); Extra. December 18, 2020. [Bolsonaro diz que imprensa não está do lado da verdade e da lei em discurso para PMs no Rio](#).

²⁵⁶ Article 19. [Freedom of Speech and Press face the greatest threat of the democratic period in Brazil](#). June 2, 2020.

²⁵⁷ Federação Nacional dos Jornalistas (FENAJ). [Violência contra jornalistas e liberdade de imprensa no Brasil. Relatório 2020](#). January 2021.

²⁵⁸ Article 19. [Violações à Liberdade de Expressão. Relatório Anual 2019-2020](#). November 26, 2020. P. 20.

²⁵⁹ GauchaZH. April 19, 2020. [Ato a favor de Bolsonaro e de intervenção militar termina com confusão em Porto Alegre](#); FENAJ. April 20, 2020. [Sindjors e FENAJ repudiam agressão de jornalistas por apoiadores de Bolsonaro](#); Abraj. April 20, 2020. [Repórteres são atacados ao cobrir manifestações pró-Bolsonaro](#).

²⁶⁰ Globo. May 3, 2020. [Profissionais de imprensa são agredidos durante manifestação antidemocrática com a presença de Bolsonaro](#); Brasil 247. May 3, 2020. [Bolsonaristas agredem profissionais da Globo, Estado e Folha de S.Paulo com chutes, empurrões e murros](#); Estadão. May 3, 2020. [Profissionais do Estadão são agredidos com chutes, murros e empurrões por apoiadores de Bolsonaro](#).

181. On May 14, representatives of the Journalist Professionals Union of Minas Gerais and of the NGO Casa del Periodista reported the appearance of graffiti in the Santa Efigênia neighborhood threatening journalists, including with expressions like "cooperate in the cleansing of Brazil, kill a journalist."²⁶¹

182. This Office of the Special Rapporteur was informed of numerous incidents of verbal aggression by followers of President Bolsonaro against journalists outside the Alvorada Palace. For example, on May 25, after President Bolsonaro criticized the media, a group of followers verbally harassed the journalists.²⁶² This situation has led several media outlets to suspend their daily coverage in front of Planalto Palace,²⁶³ and several organizations have brought legal action asking the government to guarantee the safety of journalists covering Bolsonaro interviews there.²⁶⁴

183. On September 29, *Diário do Centro do Mundo* journalist Pedro Zambarda received a message on his cell phone with a death threat. This was after the journalist published an article on the new "wave of hate" and the violent posts on social media by members of the extreme right. The case has been under investigation by the Civil Police of São Paulo after Zambarda filed a criminal complaint through a police report.²⁶⁵

184. Additionally, on October 26, Romano dos Anjos, a journalist with the *TV Imperial* news program "Metete Bronca," was kidnapped from his home. The journalist, who covers corruption, crime, and the police, was found the next day with injuries to his legs and arms, and his vehicle had been set on fire.²⁶⁶ According to information from the Federação Nacional dos Jornalistas (FENAJ), the investigations indicate that the crime is related to his professional activities.²⁶⁷

185. On October 29, reporter Arcênio Corrêa and cameraman Stanley Mathias, with *TV Integração*, were attacked by two municipal employees while they were covering the pandemic in the city of Prata. According to the information available, a doctor tried to take Corrêa's microphone and cell phone, and a supervisor grabbed him by the throat.²⁶⁸

186. On November 2, reporter Bárbara Barbosa and cameraman Renato Soder, with *NSC TV*, were attacked at Campeche Beach, in Florianópolis, while reporting on failure to comply with regulations prohibiting crowds. A group of people threatened to break their equipment if they kept recording and took Barbosa's cell phone, which she later recovered.²⁶⁹

C. Subsequent liability

187. During 2020, the Office of the Special Rapporteur documented numerous judicial actions brought against journalists.

188. According to the information available, on January 21, the Ministry of the Public Prosecutor of Brazil brought a criminal complaint against the journalist Glenn Greenwald, director of *The Intercept-Brasil*, for his alleged participation in hacking a device, illegal communications interception, and criminal conspiracy. The charges were related to articles published by *The Intercept* in 2019 that were based on a series of

²⁶¹ O Tempo. May 14, 2020. [Pichação em tapume ameaça de morte jornalistas em BH](#); UOL Congresso em Foco. May 14, 2020. [Jornalistas são ameaçados de morte em Belo Horizonte. Sindicato protesta](#).

²⁶² Correio Braziliense. May 25, 2020. [Apoiadores de Bolsonaro hostilizam jornalistas em frente ao Alvorada](#); Folha de São Paulo. May 25, 2020. [Apoiadores de Bolsonaro hostilizam jornalistas após nova crítica do presidente à imprensa](#).

²⁶³ Globo. May 25, 2020. [Falta de segurança faz jornalistas do Grupo Globo deixar plantão no Alvorada](#); Reporters Without Borders (RSF). June 1, 2020. [Vários meios de comunicação deixam de cobrir as rodas de imprensa do presidente enquanto se discute o risco para os jornalistas](#); Correio Braziliense. May 26, 2020. [Após agressões, jornais decidem não enviar mais jornalistas ao Alvorada](#).

²⁶⁴ Article 19. June 30, 2020. [Entidades entram com ação contra o governo por ataques a jornalistas](#); Reporters Without Borders (RSF). July 9, 2020. [Brazil: A coalition of civil society organizations takes legal action over attacks against journalists](#).

²⁶⁵ Diário do Centro do Mundo. October 2, 2020. [Repórter do DCM que investigou gabinetes do ódio é ameaçado de morte, e suspeito é ex-assessor do deputado Conte Lopes](#); Associação Brasileira de Jornalismo Investigativo (Abraji). October 8, 2020. [Polícia Civil de SP apura denúncia de ameaça de morte contra jornalista do DCM](#).

²⁶⁶ Globo. October 27, 2020. [Jornalista é encontrado com braço quebrado e pernas lesionadas após sequestro em Boa Vista](#); Committee to Protect Journalists (CPJ). October 30, 2020. [Journalist Romano dos Anjos kidnapped and assaulted in Brazil](#).

²⁶⁷ Federação Nacional dos Jornalistas (FENAJ). [Violência contra jornalistas e liberdade de imprensa no Brasil. Relatório 2020](#). January 2021. Pp. 66-67.

²⁶⁸ Abraji. October 29, 2020. [Abraji repudia agressão de servidores a equipe de TV em MG](#); Correio Braziliense. October 29, 2020. [Repórter é agredido com um mata-leão durante reportagem em Minas](#).

²⁶⁹ NSC. November 2, 2020. [Equipe da NSC TV é agredida em praia de Florianópolis](#); Globo G1. November 2, 2020. [Equipe da NSC TV é agredida em Florianópolis durante reportagem](#).

conversations between former federal judge Sergio Moro and prosecutors of “Operation Car Wash,” which had been leaked to the journalist by a confidential source. Prosecutor Wellington Divino Marques de Oliveira alleged the existence of messages exchange between Greenwald and Luiz Molição in which the journalist said he would delete the messages that had presumably been sent to *The Intercept*. Based on this, he alleged that the journalist “helped, incited, and guided” the group of hackers during the operation with the cell phones, suggesting actions “to make the investigations more difficult and reduce the chances of criminal liability.” Mr. Greenwald denied the accusations.²⁷⁰

189. On January 27, this Office of the Special Rapporteur and the United Nations Office of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent the State a request for information on the criminal complaint brought by the Office of the Public Prosecutor against Glenn Greenwald. They later published a press release expressing concern at the criminal complaint and recalling that journalists who investigate cases of corruption or improper actions by public officials must not be the target of judicial harassment or any other type of harassment in retaliation for their work.²⁷¹

190. Lastly, on February 6, Federal Judge Ricardo Leite dismissed “for now” the criminal complaint against Glenn Greenwald based on a provisional decision of Federal Supreme Court Judge Gilmar Mendez establishing that the journalist cannot be investigated or found guilty by government authorities and administrative or criminal investigative bodies in connection to the “receipt, attainment, or transmission” of the information published in the media.²⁷²

191. Elsewhere, the Office of the Special Rapporteur was informed of the use of article 26 of the National Security Act—legislation enacted by the military regime that criminalizes slander and defamation—to prosecute journalists.

192. For example, on June 15, Minister of Justice André Mendonça announced on his Twitter account that he had asked to the Federal Police and the Office of the Attorney General to open an investigation into journalist Ricardo Noblat, a columnist with the magazine *Veja*, for printing a caricature showing President Bolsonaro with a brush in one hand and a red cross transformed into a swastika.²⁷³ Likewise, the Office of the Secretary of Communication used its Twitter account to accuse the journalist of committing the crime of false accusation.²⁷⁴

193. Also, on July 7, André Mendonça posted on his Twitter account that he would ask the Federal Police to launch an investigation against *Folha de Sao Paulo* journalist Hélio Schwartsman over an article headlined “*Por que torço para que Bolsonaro morra,*” in which he said he hoped President Jair Bolsonaro—who had COVID-19—died, as it would mean no longer having a government that minimized the pandemic or sabotaged measures to mitigate it.²⁷⁵ On August 25, Supreme Court of Justice Judge Jorge Mussi suspended the police investigation until the habeas corpus presented for the journalist was resolved on the merits, indicating that it was impossible to establish in preliminary review whether there was a political motivation or real or potential harm to the rights protected by the National Security Act.²⁷⁶

194. This Office was also informed of the launch of an investigation in August against lawyer Marcelo Feller, who, during a TV program, had cited a study finding that President Bolsonaro was responsible for

²⁷⁰ Ministério Público Federal. January 21, 2020. [Operação Spoofing: MPF denuncia sete por crimes envolvendo invasões de celulares de autoridades brasileiras](#); New York Times. January 22, 2020. [Glenn Greenwald Charged With Cybercrimes in Brazil](#); Reporters Without Borders (RSF). January 22, 2020. [Decision to charge Greenwald is a “unjustified reprisal,” RSF says](#).

²⁷¹ IACHR. Office of the Special Rapporteur for Freedom of Expression. February 6, 2020. [Press Release 22/20. Brazil: UN and IACHR experts express concern over the complaint against journalist Glenn Greenwald](#).

²⁷² Folha de Sao Paulo. February 6, 2020. [Juiz adia decisão sobre denúncia contra Glenn em caso dos hackers da Lava Jato](#); Globo. February 6, 2020. [Justiça rejeita denúncia contra jornalista Glenn Greenwald e torna réus outros seis](#).

²⁷³ Twitter account of André Mendonça (@AmendoncaMJSP). [June 15, 2020](#); Folha de Sao Paulo. June 15, 2020. [Governo usa Lei de Segurança Nacional para investigar jornalista que publicou charge de Bolsonaro](#).

²⁷⁴ Twitter account of Secretaria Especial de Comunicação Social da Presidência da República (@secomvc). [June 15, 2020](#).

²⁷⁵ Consultor Jurídico. July 7, 2020. [Ministro da Justiça pede inquérito contra jornalista que defende morte de Bolsonaro](#)

²⁷⁶ Supremo Tribunal de Justicia. August 25, 2020. [Ministro suspende inquérito contra jornalista Hélio Schwartsman por artigo sobre presidente Bolsonaro](#).

some of the COVID-19 deaths in Brazil. This was after André Mendonça sent a request to the director of the Federal Police asking for an investigation of the lawyer for violating article 26 of the National Security Act.²⁷⁷

195. Additionally, on June 19, the Federal Supreme Court ruled 9 to 2 that the codification of the criminal offense of *desacato* in article 331 of the Criminal Code did not violate freedom of expression guarantees. It therefore declared the Motion of Failure to Comply with a Fundamental Precept filed by the Conselho Federal da Ordem dos Advogados do Brasil (OAB) inadmissible.²⁷⁸

196. On August 26, journalist Reinaldo Azevedo, a columnist with *Folha de São Paulo* and the host of a radio program on *BandNews FM*, was ordered to pay compensation of 35,000 reais after Deltan Dallagnol, the coordinator of the Operation Car Wash investigation in Curitiba, sued him for nonpecuniary damages, alleging that close to 50 articles published by the journalist in 2017 had affected his reputation.²⁷⁹

197. On November 11, federal prosecutor Ailton Benedito announced on his Twitter account that he was bringing suit against the website *Aos Fatos*—which he called a “self-styled” fact-checking website—for having violated his fundamental rights. He also urged other people to take legal action to protect their rights, stating that fact-checking projects and their owners do not have immunity. This was after *Aos Fatos* named the prosecutor in a May 2020 report on spreaders of false information.²⁸⁰

D. Censorship

198. On June 15, Judge Daniel da Silva Luz de Espumoso issued an order blocking the broadcasting of a report on irregular emergency relief payments, which was to be disseminated on June 16 on *RBS TV*, a *Globo* affiliate, granting a request by one of the individuals mentioned in the report. *Globo* appealed the decision, and it was upheld by the Rio Grande do Sul Court of Justice on June 19.²⁸¹ In the end, Federal Supreme Court Justice Alexandre de Moraes authorized *RBS TV* to broadcast the report.²⁸²

199. On August 28, Judge Leonardo Grandmasson Ferreira Chaves, of the 32nd Civil Court of Rio de Janeiro, ordered *Jornal GGN* and its editor, Luis Nassif, to retract 11 articles mentioning the bank *BTG Pactual*, in the framework of a defamation lawsuit. The articles in question reported certain irregularities like a lack of transparency and favoritism in procurement by BTG Pactual in a Banco do Brasil loan portfolio.²⁸³ Later, Judge Fernando Foch of the Third Civil Chamber of the Rio de Janeiro Court of Justice overturned the decision on October 9, finding *Jornal GGN* had a right to republish the withdrawal material and to publish new material, as well as guaranteeing BTG Pactual its right to reply.²⁸⁴

200. On September 4, and at the request of Senator Flávio Bolsonaro, Rio de Janeiro Court Judge Cristina Feijó blocked *TV Globo* from including documents in its reports from the investigation into Flávio Bolsonaro for embezzlement of public funds and corruption. The president’s son announced this decision on his social media accounts, referring to the media outlet with the hashtag #GloboLixo and accusing the media of

²⁷⁷ UOL. January 21, 2021. [Marcelo Feller é intimado por acusar Bolsonaro de assassinato em massa](#); *Folha de São Paulo*. January 20, 2021. [Ministro da Justiça requisita inquérito policial contra advogado que criticou Bolsonaro na CNN](#).

²⁷⁸ Supremo Tribunal Federal. June 22, 2020. [Tipificação do crime de desacato não viola a garantia de liberdade de expressão](#); Jota. June 19, 2020. [STF decide que desacato é crime recepcionado pela Constituição de 1988](#).

²⁷⁹ Abraj. September 7, 2020. [Dallagnol usa Justiça Especial Cível para processar Reinaldo Azevedo](#); *Revista Forum*. September 4, 2020. [Reinaldo Azevedo é condenado a indenizar Dallagnol por esposa do amigo do procurador](#).

²⁸⁰ Twitter account of Ailton Benedito (@AiltonBenedito). [November 11, 2020](#); *Voces del Sur*. November 11, 2020. [Abraj condena las represalias del fiscal de la República contra el sitio Aos Fatos](#); *Ponte*. November 11, 2020. [Procurador da República processa agência que combate fake news por combater fake news](#).

²⁸¹ *Folha de São Paulo*. June 16, 2020. [Juiz do RS determina censura prévia de reportagem sobre auxílio emergencial da Covid-19](#); *Globo*. June 19, 2020. [Justiça do RS mantém censura prévia a reportagem da RBS TV](#).

²⁸² *Gazeta do Povo*. June 30, 2020. [Alexandre de Moraes derruba censura prévia imposta à RBS TV: “antidemocrática”](#); *Estadão*. June 30, 2020. [Alexandre ve ato “antidemocrático” e derruba censura prévia imposta à RBS TV](#).

²⁸³ *Revista Forum*. August 30, 2020. [Justiça do Rio censura matérias do Jornal GGN sobre esquema do banco BTG Pactual em licitações](#); Inter-American Press Association (IAPA). September 2, 2020. [IAPA asks to revoke judicial censorship in Brazil](#).

²⁸⁴ *Jornal GGN*. October 13, 2020. [Desembargador derruba decisão que mandava GGN excluir matérias sobre BTG Pactual](#); *Revista Forum*. October 13, 2020. [Desembargador derruba decisão que mandava GGN excluir matérias sobre BTG Pactual](#).

inventing things to smear him and the president.²⁸⁵ On September 16, Judge Fábio Dutra denied the motion submitted by *Globo* and upheld the censorship ordered by the lower court.²⁸⁶

201. According to the information received by this Office, on November 10, elections courts censored the publication of a survey by *DataFolha* on the elections in São Paulo, granting the request for suspension filed by candidate Celso Russomanno. The decision was upheld on November 11 by elections Judge Marco Antonio Martin, of the First Electoral Zone. After *DataFolha* appealed to the Regional Electoral Tribunal, on November 11, Judge Afonso Celso da Silva authorized the publication, finding that it should be made clear that the survey was being challenged before elections authorities. The following day, the Regional Elections Court upheld the decision unanimously.²⁸⁷

202. The Office of the Special Rapporteur documented multiple requests for removal of content in the framework of municipal elections. For example, on November 17, *The Intercept* reported that the judge coordinating electoral advertising for the Regional Electoral Court of Amazonas, Alexandre Henrique Novaes de Araújo, ordered removal of an article about Ricardo Nicolau, a candidate in the Municipality of Manaus on finding that it contained obviously false information. In an article published on November 13, *The Intercept* reported that the candidate had taken advantage of his access to the inside of the city's municipal hospital to record images for his campaign dressed in white and visiting the beds of patients as if he were a doctor, and that one of his relatives had a close relationship with an elections judge.²⁸⁸

203. Additionally, on November 27, the Ninth Chamber of Private Law of the São Paulo Court of Justice ordered the removal of two articles published on the websites *Ponte Jornalismo* and *Alma Preta*. In September, both sites had published articles on the situation of a woman of African descent who had been ordered to pay compensation to a company where she had worked in the past and remove posts from her social media accounts in which she alleged racial defamation by her former boss. The suit, which was filed by the owner of communications agency *PR Newswire*, had been ruled inadmissible by a lower court, but the decision was appealed and later modified by Judge Piva Neto.²⁸⁹

204. According to the information available, on December 18, Judge William Costa Mello, of the 30th Civil Court of Goiânia, ordered the removal of an article from the website and Instagram account of *Atilados*, a project recently created by young professionals to encourage investigative reporting in the state of Goiás. The judge also ordered the removal of recordings disseminated via the YouTube account of *Rádio Sucesso FM*. The suit was filed by attorney and former judge Maria Luiza Póvoa Cruz after *Atilados* revealed in a report her connection to an alleged incident of real estate fraud. Although the lower court judge dismissed the lawsuit, Judge William Costa Mello granted the request, ordering the content removed and that they refrain from publishing any other news or information on the plaintiff.²⁹⁰

205. On December 11, alternate judge Cleni Serly Rauen Vieira of the Third Civil Court of Florianópolis, Santa Catarina Court of Justice, ordered *The Intercept Brasil* and *Notícias do Dia - ND Mais* to edit the reports they had published about hearings in the case of Mariana Ferrer, in which she had supposedly been humiliated by a lawyer when she accused a businessman of statutory rape. The decision was issued in the context of a lawsuit brought against *The Intercept*, *ND+*, and journalist Schirlei Oliveira for non-pecuniary damages. The editors of *The Intercept Brasil* criticized the decision, saying that "controlling what the media

²⁸⁵ UOL. September 5, 2020. ['Não tenho nada a esconder', diz Flávio Bolsonaro após liminar contra Globo](#); Estadão. September 4, 2020. [Juiza atende Flávio Bolsonaro e proíbe exibição de documentos do caso das "rachadinhas" na Globo](#).

²⁸⁶ Folha de Sao Paulo. September 16, 2020. [Desembargador mantém censura à TV Globo em caso Flávio Bolsonaro](#); O Tempo. September 16, 2020. [Desembargador mantém censura à TV Globo em caso Flávio Bolsonaro](#).

²⁸⁷ Metrôpoles. November 11, 2020. [Censura ao Datafolha em SP pedida por Russomanno é mantida pela Justiça](#); Folha de Sao Paulo. November 12, 2020. [Por unanimidade, TRE-SP confirma liberação de pesquisa Datafolha contestada por Russomanno](#).

²⁸⁸ Justiça Eleitoral, 65ª Zona Eleitoral de Manaus. [Judgment of November 14, 2020](#); *The Intercept*. November 17, 2020. [Uma reportagem do Intercept foi censurada e nós descobrimos o motivo](#); Abraji. November 18, 2020. [Para especialistas, censura ao Intercept Brasil e a pesquisas eleitorais é ameaça à democracia](#).

²⁸⁹ Tribunal de Justiça do Estado de Sao Paulo, 9ª Camara de Direito Privado. [Decisão Monocrática. Processo nº 1126794-84.2016.8.26.0100/50000](#). November 27, 2020; Abraji. December 23, 2020. [Organizações condenam censura judicial e prestam solidariedade à Ponte Jornalismo](#).

²⁹⁰ Poder Judicial de Goiânia, 30ª Tribunal Civil. [Decisão del December 18, 2020](#). Proceso 5651891-43.2020.8.09.0051; FENAJ. December 21, 2020. [Nota de Repúdio](#); Abraji. December 21, 2020. [Abraji registra novos casos de censura contra imprensa](#).

can publish is what dictatorships do.” Likewise, *Abraji* stated that direct interference in how news articles are written is unprecedented and extremely concerning.²⁹¹

206. Additionally, as this Office documented in its 2019 annual report, on April 9, 2019, the Empresa Brasil de Comunicação (EBC), merged the country's main public television channel, *TV Brasil*, with government broadcaster *NBR (TV Nacional do Brasil)*, which was in charge of broadcasting the government's official acts.²⁹² According to the information available, this has led to an increase in cases of censorship of media outlets run by the EBC. Some of them are described hereinafter.

207. Regarding this, on September 21, the Federação Nacional dos Jornalistas (FENAJ), a committee of EBC employees and journalist unions, released a report stating that there had been 138 reports of censorship between January 2019 and July 2020. According to the investigation, the most censored topics were politics and human rights, including suppression of the coverage of the murders of Marielle Franco and Anderson Gomes and the violation of indigenous rights; bans on using organizations like Amnesty International and Human Rights Watch as sources; and editing of statements from the president and his ministers to minimize the seriousness of official statements.²⁹³

208. According to publicly-available information, on January 6, the program “Fique ligado” on *TV Brasil* broadcast a report on the exhibition “*O Pasquim 50 anos*” and removed a part mentioning the imprisonment of nine journalists for two months during the military dictatorship. The ECB later clarified that the material was removed to meet with the time requirements of the program, which features short and dynamic segments.²⁹⁴

209. According to reports from a number of civil society organizations, *Agência Brasil* officials were informed that they could not publish any reaction of authorities to Bolsonaro's March 2020 speech in which he criticized the closing of schools and attacked governors and the media for the COVID-19 pandemic.²⁹⁵

210. In June 2020, a reporter with *Radio Nacional* was taken off the Health Ministry beat after asking a question about the appointment of military personnel and businessmen with no public health experience. The question, sent by the reporter to a WhatsApp group created by the Ministry to receive questions during press conferences, was not answered.²⁹⁶

211. According to the information available, on November 20, the EBC ordered *Agência Brasil* not to mention on its social media accounts the murder of João Alberto Freitas, a man of African descent who was brutally beaten and suffocated by security guards at a Porto Alegre supermarket.²⁹⁷

E. Access to public information

212. As reported by this Office in its 2019 annual report, there have been setbacks on the right to access to public information since January 1, 2019. This situation has worsened considerably in the context of the COVID-19 pandemic.

213. On March 23, the federal government issued Provisional Measure 928/2020 limiting the right to access to information in the context of the pandemic. Specifically, the order suspended the deadlines for responding to requests for access to information in cases in which the public employees responsible were in

²⁹¹ *Gazeta do Povo*. December 11, 2020. [Justiça determina que The Intercept e ND Mais retifiquem matérias sobre caso Mariana Ferrer](#); *Abraji*. December 21, 2020. [Abraji condena interferência da Justiça em texto do Intercept Brasil](#); *The Intercept*. December 20, 2020. [Uma juíza determinou que editássemos nossa reportagem sobre o caso Mariana Ferrer sem nos ouvir](#)

²⁹² IACHR. [Annual Report 2019. Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter II (Evaluation of the State of Freedom of Expression in the Hemisphere). OEA/Ser.L/V/II. Doc. 5. February 24, 2020. Par. 242.

²⁹³ Fenaj. [2º Dossiê Censura EBC – Inciso VIII](#). September 2020.

²⁹⁴ *Revista Forum*. January 8, 2020. [TV Brasil censura programa sobre O Pasquim e dá como desculpa “edição compatível com tempo”](#); *Globo*. January 8, 2020. [TV Brasil corta trecho sobre prisão de jornalistas na ditadura de programa sobre exposição](#).

²⁹⁵ Document sent to the IACHR by civil society in the context of a public hearing on Freedom of Expression in Brazil of the 177 Period of Sessions. Available at: Archive of the Office of the Special Rapporteur for Freedom of Expression.

²⁹⁶ Twitter account of Sindicato de Periodistas DF (@sjpdf). [June 10, 2020](#); UOL. June 10, 2020. [Repórter da EBC é deslocado da Saúde após questionar militares na pasta](#).

²⁹⁷ *Folha de São Paulo*. November 30, 2020. [Empresa de comunicação do governo veta caso Beto Freitas em mídias sociais da Agência Brasil](#); *Brasil 2 Pontos*. November 28, 2020. [Censura ao racismo: EBC ordenou à Agência Brasil que ignorasse morte de negro no Carrefour: silêncio para Bolsonaro e Mourão dizerem que preconceito racial não existe no País](#).

quarantine or teleworking and the request required they have in-person access, or when the request involved public employees or sectors involved in the measures to deal with the pandemic. Additionally, it placed a priority on requests related to the pandemic, and made it impossible to appeal denials.²⁹⁸ Several civil society organizations came out against the measure, saying it was disproportionate and opened up the possibility of improper omissions and request for access to information and violated the constitutional right to access to information in the public interest.²⁹⁹

214. On March 26, Supreme Federal Court Justice Alexandre de Moraes preliminarily suspended the effects of article 1 of the provisional measure, finding that the article in question did not establish exceptional and specific situations that would prevent access to information, but rather changed the constitutional rule of publicity and transparency into the exception.³⁰⁰ In the end, on April 30, the full Supreme Federal Tribunal upheld this decision unanimously.³⁰¹

215. According to the information provided by the *Fórum de Direito de Acesso a Informações Públicas*, 95 requests for access to information sent to the federal executive branch between March 27 and April 27 received adverse responses that used the pandemic as a pretext. In 66% of the cases, the response indicated that it was not possible to provide the information because of the emergency, and in 22%, only part of the information was provided.³⁰² Likewise, according to information published by ABRAJI, a Ministry of Health office denied at least 54 requests for access to information between March and September.³⁰³

216. On June 5, the Ministry of Health announced that it would change the time at which its bulletins were released, releasing them to the media at 10 p.m. rather than 7 p.m. According to reports from several media outlets, the objective was to prevent the information from being broadcast on evening news programs. Regarding this, President Bolsonaro said "*Jornal Nacional* is out of material."³⁰⁴

217. Likewise, the Ministry of Health made changes to the methodology for disseminating data on the total number of people infected with and dead from COVID-19, deleting public databases.³⁰⁵ As a result of this change, the official website was taken down between the night of June 5 and the afternoon of June 6. The new website no longer showed the total number of infections and deaths and the infection rate and mortality per 100,000 residents and made it impossible to download the information.³⁰⁶ On June 8, Federal Supreme Court Justice Alexandre de Moraes ordered the government to go back to fully disclosing accumulated data on infections and deaths on the Ministry of Health's website.³⁰⁷ Lastly, on June 9, the Ministry of Health once again began disseminating detailed information on the pandemic through its website.³⁰⁸ Likewise, on June 12, the Ministry of Health launched a new interactive platform for disseminating information on cases and deaths broken down by region and municipality.³⁰⁹

218. In response, several of the country's media outlets—*UOL*, *O Estado de S. Paulo*, *Folha de S. Paulo*, *O Globo*, *G1*, and *Extra*—created a partnership to work together to obtain information directly from local health authorities from the different states so as to release information on a daily basis on how the pandemic was

²⁹⁸ UOL. March 24, 2020. [Bolsonaro edita MP que suspende atendimento de acesso à informação; Diário Oficial da União. Medida Provisória Nº928](#). March 23, 2020.

²⁹⁹ Artigo 19. [NOTA CONIUNTA: Só venceremos a pandemia com transparência](#). March 24, 2020.

³⁰⁰ Supremo Tribunal Federal. March 26, 2020. [Suspensa norma que restringe acesso a informações públicas](#).

³⁰¹ Globo. April 30, 2020. [STF derruba restrições à Lei de Acesso à Informação previstas em MP editada por Bolsonaro](#); Jusbrasil. Supremo Tribunal Federal. [Refrendo na medida cautelar na ação direta de inconstitucionalidade](#). April 30, 2020.

³⁰² Fórum de Direito de Acesso a Informações Públicas. May 4, 2020. [Pandemia foi usada para negar atendimento a pedidos de informação mesmo após suspensão da MP 928](#).

³⁰³ Abraji. September 18, 2020. [Ministério da Saúde volta a atender pedidos de informação após seis meses de recusas](#).

³⁰⁴ Folha de Sao Paulo. June 5, 2020. [Acabou matéria no Jornal Nacional](#); Globo. June 5, 2020. ['Acabou matéria do Jornal Nacional', diz Bolsonaro sobre atrasos na divulgação de mortos por coronavírus](#).

³⁰⁵ Agência Brasil. June 8, 2020. [Ministério da Saúde muda formato de divulgação de dados de covid-19](#).

³⁰⁶ Época, [Ministério da Saúde sonega informações públicas sobre coronavírus](#), April 1, 2020; IFEX. [IFEX-ALC condena la obstrucción al derecho a la información y las actividades periodísticas en Brasil](#). June 8, 2020; Globo. [Após reduzir boletim diário, governo Bolsonaro retira dados acumulados da Covid-19 do site](#). June 6, 2020.

³⁰⁷ El País Brasil. June 8, 2020. [Moraes, do STF, manda Governo Bolsonaro retomar divulgação total de dados da covid-19](#); Reuters. June 9, 2020. [Moraes, do STF, ordena que Ministério da Saúde divulgue dados integrais sobre Covid-19](#).

³⁰⁸ Folha de Sao Paulo. June 9, 2020. [Ministério da Saúde recua e volta a divulgar íntegra de dados da Covid-19 após decisão do STF](#).

³⁰⁹ Gobierno Federal, Ministerio de Salud. June 12, 2020. [Ministério da Saúde disponibiliza plataforma interativa para acompanhar dados de COVID-19](#).

developing.³¹⁰ The coalition revealed on June 21 that only 8 of the 27 states included ethnic-racial identification indicators for persons infected and dead from COVID-19.³¹¹

219. In view of information received on the potential violation of the duty of active transparency, on June 29, the Inter-American Commission sent the State a request for information on the measures taken to publicly document and disseminate information on deaths and infections from COVID-19 that could violate the duty of transparency and the right to health. In the letter, the IACHR expressed concern at the methodological change in the dissemination of information and the removal of 550,000 records of deaths and their causes from the "Transparency Portal" that had been recorded by the country's civil registry offices between 2015 and 2018. Regarding this last point, the State indicated that the "Transparency Portal" of the civil registry is maintained by the *Associação Nacional dos Registradores de Pessoas Naturais* (ARPEN), a private association.

220. Additionally, according to publicly available information, on June 8, the Office of the Comptroller General of the Union ruled to restrict access to certain public documents, establishing that legal memos issued by the different ministries to guide the president on whether to sign or veto bills passed by Congress would be considered confidential.³¹²

221. As reported by the media on August 31, an arrangement was organized through WhatsApp known as "Guardians of Crivella" where Rio de Janeiro municipal employees could stand guard outside the city's public hospitals to block the media from working, preventing them from doing interviews and reporting on problems with the municipal health system.³¹³ In response to the situation, the Public Elections Ministry of Rio de Janeiro filed suit on December 16 against the mayor of Rio de Janeiro and other officials for abuse of political power.³¹⁴

222. According to a report from *Fórum de Direito de Acesso a Informações Públicas*, the frequency of press conferences on the pandemic offered by the Ministry of Health slowed throughout the year. Between January 23 and May 23, the average time between press conferences was 1.6 days, and after that, it increased to 4.3 days. However, there was a period of 13 days between October 29 and November 12 during which no press conferences were held.³¹⁵

223. The report also indicated that the Ministry of Health website with the data on the distribution of COVID-19 tests saw significant delays in publishing information. For example, as of the beginning of December, the latest data available was from the week of August 16-22. On December 3, the information was updated through the week of November 15-21.³¹⁶

224. Additionally, on September 29, Economy Minister Pablo Guedes denied a request for information from the newspaper *Globo* regarding documentary support for the proposed administrative reform constitutional amendment before the National Congress. As grounds, the denial indicated that the subject remains pending final determination, and therefore could only be divulged once the procedure before Congress concluded.³¹⁷

225. Due to a cyber attack on the Ministry of Health on November 5, there was a delay in the publication of information on cases of COVID-19 infections and deaths in some states. Because some databases were

³¹⁰ El País Brasil. June 8, 2020. [Morales, do STF, manda Governo Bolsonaro retomar divulgação total de dados da covid-19](#); Estadão. June 8, 2020. [Veículos de comunicação fromam parceria para dar transparência a dados de covid-19](#).

³¹¹ G1.Globo.com. June 21, 2020. [Maioria dos estados não tem informação sobre raça das vítimas de Covid-19: parte não divulga quantidade de testes sem resultado](#).

³¹² Globo. June 8, 2020. [Governo amplia sigilo de pareceres e muda regras de transparência](#); Transparencia Braisl. June 22, 2020. [CGU volta atrás e acata tese de "sigilo de advogado" para pareceres da AGU, em desrespeito à LAI](#).

³¹³ Globo RJ2. August 31, 2020. ["Guardiões do Crivella": funcionários da prefeitura fazem plantão na porta de hospitais para impedir trabalho da imprensa](#).

³¹⁴ Estado de Minas. December 17, 2020. [MPE aciona Crivella por abuso de poder político com "Guardiões"](#); Metrôpoles. December 17, 2020. [Prefeito do Rio é denunciado pelo MPE no caso Guardiões do Crivella](#).

³¹⁵ Fórum de Direito de Acesso a Informações Públicas. [Nota Técnica: Opacidade do Ministério da Saúde na pandemia \(2020\)](#). December 10, 2020. Página 13.

³¹⁶ Fórum de Direito de Acesso a Informações Públicas. [Nota Técnica: Opacidade do Ministério da Saúde na pandemia \(2020\)](#). December 10, 2020. Página 6.

³¹⁷ Globo. September 29, 2020. [Ministério da Economia põe em sigilo documentos da reforma administrativa](#); Artigo 19. October 5, 2020. [Organizações alertam para violação de direito à informação: Ministério da Economia deve compartilhar documentos sobre Reforma Administrativa](#).

blocked as a precaution, some states had difficulties accessing the federal government system and entering their numbers for at least eight days.³¹⁸

226. The Office of the Special Rapporteur was informed of the exclusion of the indicators on police violence from the annual human rights report published by the federal government in June. The Ministry of Women, the Family, and Human Rights explained that the information was not released because of inconsistencies in how it was collected. On June 13, the Federal Office of the Public Prosecutor sent a letter to the minister asking for an explanation for the exclusion and saying the indicators are crucial for setting public policy on the issue and constitute a fundamental transparency instrument.³¹⁹

227. Lastly, according to the information received by the Office of the Special Rapporteur, the lack of information on the pandemic was accompanied by statements by President Jair Bolsonaro that allegedly contributed to creating a climate of disinformation. President Bolsonaro referred to COVID-19 as "the flu" at least twice during a social media livestream and comments on radio and television in March.³²⁰ President Bolsonaro also defended and promoted the use of hydroxychloroquine as a COVID-19 treatment on several occasions.³²¹

F. Freedom of expression and the Internet

228. The Office of the Special Rapporteur has been informed that a significant portion of the Brazilian population still does not have access to the Internet, which has seriously impacted access to information in general and information on health during the pandemic.³²² A number of civil society organizations have indicated that persons of African descent, persons with few resources, indigenous persons, and *quilombola* communities are particularly affected.

229. According to the survey *TIC Domicílios 2019*, conducted by the Comitê Gestor da Internet no Brasil (CGI.br) and published in 2020, 28% of Brazilian households do not have access to the Internet, a figure that increases to 47% in rural areas. The survey also highlighted a second level of digital exclusion: although access to the Internet has increased, 75% of indigenous persons, 65% of "preta" persons, and 61% of "parda" persons only have access through their cellular phones. Likewise, only 48% of indigenous persons, 55% of "preta" persons, and 57% of "parda" persons have used a computer at least once in their lives.³²³

230. Regarding *quilomba* communities, the Coordenação Nacional de Articulação de Quilombos (Conaq) and Intervezes conducted a study on the right to communication and access to information. They reported that the majority of communities consulted receive information from social media and private television and radio channels, which offer a narrative that is distant from the lived reality in these communities.³²⁴

231. Regarding this, this Office has indicated that access to the Internet during the pandemic is of necessity central, as it is the perfect tool to continue with daily tasks that previously required in-person

³¹⁸ Open Knowledge Brasil. [Em mês de apagões, governo federal e maioria dos estados omitem dados sobre leitos](#). November 30, 2020; UOL. November 13, 2020. [Após possível ataque hacker, Ministério da Saúde faz alerta sobre golpes](#); UOL. November 13, 2020. [Com dados incompletos de SP e PR, Brasil tem 523 mortes por covid em 24 h](#); Folha de Sao Paulo. November 8, 2020. [Sem dados de quatro estados e do DF, Brasil registra 88 novas mortes por Covid-19 em 24 h](#).

³¹⁹ Época. June 13, 2020. [MPF pede que Damares entregue dados sobre violência policial](#); Folha de Sao Paulo. June 12, 2020. [Governo Bolsonaro exclui violência policial de relatório sobre violações de direitos humanos](#).

³²⁰ BBC News. November 27, 2020. [2 momentos em que Bolsonaro chamou covid-19 de 'gripezinha', o que agora nega](#); UOL. March 24, 2020. [Bolsonaro volta a se referir ao coronavírus como gripezinha, critica governadores e gera reação](#).

³²¹ CNN. April 8, 2020. [Bolsonaro volta a defender cloroquina em novo pronunciamento em rede nacional](#); New York Times. July 8, 2020. [Bolsonaro Hails Anti-Malaria Pill Even as He Fights Coronavirus](#).

³²² Lack of Internet access has also impacted the right of access to education. According to the *TIC Educação 2019* survey, 39% of students in urban public schools do not have a computer or tablet at home. Among private schools, the rate is 9%. See: <https://cetic.br/pt/pesquisa/educacao/indicadores/>

³²³ Comitê Gestor de Internet en Brasil. [TIC Domicílios 2019. Pesquisa Sobre o Uso das Tecnologias de Informação e Comunicação nos Domicílios Brasileiros](#). 2020; Alma Preta. June 1, 2020. [Indígenas, negros e pobres: odiados pelo Estado e excluídos da internet](#).

³²⁴ Nexo. April 28, 2020. [Como quilombolas estão atravessando a pandemia no Brasil?](#); Information sent to the Office of the Special Rapporteur by Intervezes - Coletivo Brasil de Comunicação Social on August 5, 2020. Available at: Archive of the Office of the Special Rapporteur for Freedom of Expression.

contact, in addition to being crucial for the exercise of civil, political, economic, and cultural rights.³²⁵ In the case of Brazil, civil society organizations have reported that *quilombola* communities, persons of African descent, and people who live on the outskirts or in rural areas have had difficulties getting emergency help from the government, as in order to receive it, people have to register using a cellular phone app.³²⁶

232. On March 20, the National Telecommunications Agency and a group of telecommunications companies signed a public commitment to keep Brazil connected.³²⁷ According to the information received by the Office of the Special Rapporteur, on March 19, the organization Intervozes filed a petition before Anatel asking that the agency order a 90-day ban on the suspension of Internet connection services and on overage fees where people exceed the data limits in their contracts. This request was rejected by Anatel on June 22.³²⁸

233. The Office of the Special Rapporteur has held that the principle of universal access to the internet “refers to the need to guarantee connectivity and access to the network infrastructure and other IT services that is universal, ubiquitous, equitable, truly affordable, and of adequate quality, all throughout the State’s territory.”³²⁹ Likewise, the Twentieth Anniversary of the Joint Declaration: Challenges to Freedom of Expression in the Next Decade established that “the right to access and use the Internet [should be recognized] as a human right as an essential condition for the exercise of the right to freedom of expression.”³³⁰

234. Likewise, in a 2011 joint declaration on freedom of expression and the Internet, the special rapporteurs from the UN, the OSCE, the IACHR, and the ACHPR stated that “Giving effect to the right to freedom of expression imposes an obligation on States to promote universal access to the Internet. Access to the Internet is also necessary to promote respect for other rights, such as the rights to education, health care and work, the right to assembly and association, and the right to free elections.”³³¹

235. Additionally, on April 1, Bill 2630/2020, on “Internet Freedom, Responsibility, and Transparency” was brought before the Senate. After 152 proposed amendments, it was approved by the Senate on June 30.³³² At that time, civil society organizations criticized the lack of discussion with stakeholders and pointed to the existence of grave risks to freedom of expression online.³³³

236. On July 3, this Office of the Special Rapporteur joined the United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression in sending a letter to the State of Brazil regarding the bill. The experts pointed to certain provisions they viewed as particularly problematic with regard to the principles of the right to freedom of expression, in accordance with Brazil’s obligations

³²⁵ IACHR. Office of the Special Rapporteur for Freedom of Expression. August 31, 2020. [Press release R206/20. States of the Region must Accelerate Universal Internet Access Policies during the COVID-19 Pandemic and Adopt Differentiated Measures to Incorporate Groups in Vulnerable Situations.](#)

³²⁶ Folha de Sao Paulo. May 16, 2020. [70 milhões de brasileiros têm acesso precário à internet na pandemia do coronavírus](#); Jornal da USP. May 12, 2020. [Aplicativo do auxílio emergencial dificulta acesso da população.](#)

³²⁷ Agencia Nacional de Telecomunicaciones (Anatel). March 20, 2020. [Anatel e setor de telecom firmam compromisso público para manter Brasil conectado.](#)

³²⁸ Intervozes. March 31, 2020. [Intervozes solicita a Anatel la prohibición de la suspensión de conexiones móviles y de banda ancha por 90 días](#); Digital Policy Law. June 24, 2020. [Anatel niega solicitud para prohibir suspensión de servicios telecom en Brasil](#); Agencia Nacional de Telecomunicaciones (Anatel). [Informe nº1/2020/SRC. Proceso nº 53500.012498/2020-31.](#) June 22, 2020.

³²⁹ IACHR. Office of the Special Rapporteur for Freedom of Expression. [Standards for a Free, Open and Inclusive Internet.](#) OEA/Ser.L/V/II CIDH/RELE/INF.17/17. March 15, 2017. P. 13.

³³⁰ The United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples’ Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information. July 10, 2019. [Twentieth Anniversary of the Joint Declaration: Challenges to Freedom of Expression in the Next Decade.](#)

³³¹ The United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples’ Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information. June 1, 2011. [Joint Declaration on Freedom of Expression and the Internet.](#)

³³² UOL. June 30, 2020. [PL das fake news: aprovado no Senado, entenda o que pode mudar](#); Coalizão Direitos Na Rede. July 1, 2020. [Nota de Coalizão Direitos Na Rede sobre aprovação do PL 2630/20 no Senado.](#)

³³³ Reporters Without Borders (RSF). June 25, 2020. [Brazil’s “fake news” bill poses major threat to freedom to inform](#); FENAJ. June 2, 2020. [Votação do PL das fake news põe em risco liberdade de expressão online e não pode ser votado às pressas](#); Observacom. June 4, 2020. [Organizaciones sociales alertan riesgos sobre el proyecto de ley para combatir la desinformación en Brasil.](#)

under the International Covenant on Civil and Political Rights (ICCPR) and the American Convention on Human Rights. A number of the points called into question are reviewed hereinafter.

237. First, they indicated that although they have encouraged technology companies to detect and discourage the use of automated accounts for the purpose of distributing deliberately false information or when they are used in a coordinated manner to harass persons exercising their freedoms on the Internet, the generic prohibition of using automated accounts is a disproportionate restriction on the circulation of information. In their view, the law lacked clarity and was fraught with ambiguity.

238. They noted that the imposition of excessive charges for the creation and use of accounts in social networks or messaging services had a direct impact on the right to freedom of expression and access to information for users, and also affected the exercise of other fundamental rights, such as the rights to education, health, as well as access to online goods and services, at a crucial age of digitalization. They also stated that the obligation to link an account with an identity document and/or a mobile phone number directly undermines the right to anonymity in the legitimate exercise of freedom of thought and expression.

239. Likewise, the experts said the requirement to store data from the origin of "bulk" messages (traceability) could constitute an interference with the right to privacy as well as the right to freedom of expression. Lastly, they expressed concern at the provisions related to content moderation and responsibility of Internet service providers, which could make intermediaries responsible for the content that third parties share on their platforms, imposing a vague and ambiguous obligation that may lead to greater private censorship on the Internet.³³⁴

240. Later, the Special Rapporteur at the time held a meeting with Brazilian members of Congress on July 29 to offer recommendations on the bill based on inter-American standards on freedom of expression and disinformation in the context of elections.³³⁵

241. Also, the Associação Brasileira de Jornalismo Investigativo (Abraji) recorded at least 54 cases of journalists being blocked on social media by public authorities during 2020.³³⁶ On February 23, Education Minister Abraham Weintraub posted screencaps on his Twitter account showing that he had blocked journalists on the social network after they published reports on his possible exit from the ministry.³³⁷

242. In November 2020, two cases related to the blocking of journalists on social media by President Bolsonaro reached the Federal Supreme Court. On November 11, the Procurator General of the Republic sent a brief to the Federal Supreme Court on the case of lawyer Leonardo Medeiros Magalhães arguing that the president could block his followers on social media. However, on November 13, Judge Marco Aurélio Mello, the Rapporteur for the process, voted in favor of the present unblocking the lawyer on Instagram, arguing that the president could not take on the role of censoring statements on social media. In this case, the virtual voting was suspended on November 16.³³⁸ Additionally, on November 27, Federal Supreme Court Justice Cármen Lúcia voted in favor of President Bolsonaro unblocking journalist and former council candidate William de Lucca on Twitter. The justice concluded that the President had excluded a citizen from a public place of expression and discussion in which content of a governmental and administrative nature was released and stated that the representative cannot hide from the represented, nor exclude someone from the virtual arena who they do not like or whose interests they do not share.³³⁹

243. Elsewhere, on December 1, *UOL* journalist Rubens Valente revealed the existence of a report called the "map of influencers" on the behavior of certain persons on social media. The map included 44 journalists. The map was prepared by a communications company at the request of the Ministry of the Economy under a

³³⁴ Office of the Special Rapporteur for Freedom of Expression of the IACHR and Office of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression of the United Nations. Letter sent to the State of Brazil on July 3, 2020. Available for consultation at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25417>.

³³⁵ Twitter account of Office of the Special Rapporteur for Freedom of Expression (@RELE_CIDH). [July 30, 2020](#).

³³⁶ Abraji. December 23, 2020. [Como tribunais de quatro países decidiram sobre bloqueio de jornalistas no Twitter](#).

³³⁷ Poder 360. February 23, 2020. [Depois de reportagens sobre possível queda, Weintraub bloqueia jornalistas](#); Portal Imprensa. February 24, 2020. [Weintraub bloqueia jornalistas no Twitter, após reportagem sobre sua possível saída do governo](#).

³³⁸ Globo. November 13, 2020. [Marco Aurélio Mello vota a favor do desbloqueio por Bolsonaro do acesso de advogado a rede social](#); Jota. November 13, 2020. [STF: Marco Aurélio vota para que Bolsonaro desbloqueie advogado no Instagram](#).

³³⁹ Globo. November 27, 2020. [Mais uma ministra do STF é contra Bolsonaro bloquear acesso a redes sociais](#); UOL. November 27, 2020. [Carmén Lúcia defende que Bolsonaro desbloqueie usuários em rede social](#).

contract between the company and the Ministry of Science and Technology. The report classifies the journalists and "opinion leaders" as detractors, favorable, or neutral, and suggests different ways of relating to them based on their classifications.³⁴⁰

G. Government advertising

244. On January 15, *Folha de Sao Paulo* published a report indicating that the director of the Social Communications Secretariat of the Presidency of the Republic (hereinafter, "Secom"), Fabio Wajngarten, had directed the distribution of government advertising to clients of the company *FW Comunicação e Marketing*, of which he is a majority partner. According to the article, *FW Comunicação e Marketing* had contracts with at least five communications companies that receive funding for issuing government advertising, whose portion of the Secretariat's advertising budget had increased since the beginning of President Bolsonaro's term.³⁴¹ In a follow-up report, *Folha de Sao Paulo* indicated that the head of Secom had had at least 67 meetings with representatives of *FW Comunicação e Marketing* clients and former clients, paying for at least 20 trips with public money.³⁴²

245. In response to these complaints, and at the request of the Federal Office of the Public Prosecutor of Brasilia, on February 4, the Federal Police opened an investigation into Secom head Fabio Wajngarten for passive corrupt practices, embezzlement, and promotion of private interests through public administration.³⁴³ For its part, the Public Ethics Committee of the Presidency of the Republic decided by majority on February 18 not to open an investigation into Fabio Wajngarten.³⁴⁴

246. On May 26, the Office of the Public Prosecutor opened an investigation at the request of the Federal Ombudsperson's Office into Secom's alleged placement of advertising with websites aligned with the federal government.³⁴⁵ This came after *Sleeping Giants Brasil* revealed that Banco do Brasil had paid for advertising on the website *Jornal da Cidade Online*, which had published false news on the 2018 presidential elections.³⁴⁶

247. Likewise, the Court of Auditors of the Union (hereinafter "TCU") conducted an audit and issued a finding during the virtual seminar on August 11 that there was a lack of technical and objective criteria for the distribution of government advertising by the federal government and that the pattern for allocating resources had changed to favor television channels openly aligned with the Bolsonaro administration.³⁴⁷

248. Additionally, on June 10, Provisional Measure 980 was published, making Secom part of the new Ministry of Communications.³⁴⁸ Multiple civil society organizations have expressed concern at the lack of public debate when making this decision and indicated that placing Secom under the Ministry of Communications could lead to even greater conflicts of interest when allocating resources.³⁴⁹ To head the new ministry, President Jair Bolsonaro named Fábio Faria, a deputy and the son-in-law of businessman Silvio Santos, the owner of SBT, the second largest over-the-air television network in Brazil.³⁵⁰

³⁴⁰ UOL. December 1, 2020. [Relatório do governo separa em grupos jornalistas e influenciadores](#); Abraj. 1 de diciembre de 2020. [Especialistas avaliam efeitos do monitoramento de jornalistas feito pelo governo](#).

³⁴¹ *Folha de Sao Paulo*. January 15, 2020. [Chefe da Secom recebe dinheiro de emissoras e agências contratadas pelo governo Bolsonaro](#).

³⁴² *Folha de Sao Paulo*. January 16, 2020. [Chefe da Secom de Bolsonaro teve 67 encontros com clientes e ex-clientes de sua empresa](#).

³⁴³ BBC News Brasil. February 6, 2020. [As suspeitas sobre Fabio Wajngarten, chefe da Secom de Bolsonaro investigado pela PF](#); O tempo. February 4, 2020. [PF abre inquérito para investigar Wajngarten por possível corrupção e peculato](#).

³⁴⁴ Globo. February 18, 2020. [Comissão de Ética da Presidência arquiva denúncia sobre Fábio Wajngarten](#); Reuters. February 18, 2020. [Comissão de Ética da Presidência arquiva representação contra chefe da Secom](#).

³⁴⁵ *Correio Braziliense*. May 27, 2020. [MPF vai investigar verbas publicitárias federais a sites ideológicos](#); Globo. May 26, 2020. [MPF abre inquérito para investigar suspeita que governo direciona verba para sites ideológicos](#).

³⁴⁶ *El País*. May 27, 2020. [Una campaña exhibe a 40 empresas que se anunciaban en webs de noticias falsas en Brasil](#); *Veja*. May 30, 2020. [Sleeping Giants Brasil: "Governo dissemina ódio com dinheiro público"](#).

³⁴⁷ *Revista Forum*. August 11, 2020. [TCU acusa Bolsonaro de favorecer aliados na distribuição de verbas para TVs abertas](#); *Tribunal de Contas da União*. August 10, 2020. [Seminar discute critérios para alocação dos recursos em campanhas publicitárias do Governo Federal](#); YouTube channel of Tribunal de Contas da União. August 24, 2020. [Painel de Referencia Critérios para Alocação de Verbas em Campanhas Publicitárias do Governo Federal](#).

³⁴⁸ *Diario Oficial de la Unión*. [Medida Provisional nº 980](#). June 10, 2020.

³⁴⁹ Document sent to the IACHR by civil society in the context of a public hearing on Freedom of Expression in Brazil of the 177 Period of Sessions. Available at: Archive of the Office of the Special Rapporteur for Freedom of Expression..

³⁵⁰ *Folha de Sao Paulo*. June 10, 2020. [Bolsonaro recria Ministério das Comunicações e entrega pasta a genro de Silvio Santos](#).

249. As an initial measure, on June 25, Decree 10,405³⁵¹ was published, amending the country's broadcasting legislation. According to the information received by the IACHR during the 177th Period of Sessions, the decree weakened mechanisms of State control, thus making public control of concessions more difficult, encouraging the abusive use of them by political actors, and making the sale of concessions easier.³⁵²

H. Other relevant situations

250. On May 25, the *Jornal da Cidade Online* filed suit against Twitter, seeking the identification of the Sleeping Giants Brasil and Sleeping Giants Rio Grande do Sul account owners and the removal of the accounts. In May, the Sleeping Giants movement began publicly holding advertising companies responsible for combating "fake news" in Brazil, pressuring them to not advertise on websites that disseminate such content. According to the information available, the *Jornal da Cidade Online* has been repeatedly called to account over the truth of the information it publishes. Specifically, it was included in the National Congress Parliamentary Investigation Committee's investigation into fake news.

251. On May 27, Judge Anna Paula Caimi of the Fifth Civil Court of Passo Fundo partially granted an emergency injunction, ordering Twitter to turn over to prosecutors the records of the users who created the profiles and to preserve the data until the judicial process concluded. The decision rejected the request to remove the profiles, finding no abuse of the right to freedom of expression. Twitter appealed, which was rejected by Judge Gelson Rolim Stocker, of the Rio Grande do Sul Court of Justice. Twitter appealed again. In the framework of this process, a series of entities specializing in freedom of expression and the right to information asked to participate with an *amicus* brief. The request was rejected by the Rio Grande do Sul court in October.³⁵³

252. In response, supporters of the Jair Bolsonaro administration launched a social media campaign against the companies who removed their advertising from websites aligned with the administration. According to a study conducted by Netlab of the Universidade Federal do Rio de Janeiro, a large portion of the accounts that participated were to some degree automated.³⁵⁴

253. On December 13, two members of Sleeping Giants Brasil decided to reveal their identities in an interview with *Folha de Sao Paulo*.³⁵⁵

254. In view of the facts documented during 2020, the Office of the Special Rapporteur calls on the State of Brazil to take special note that:

255. **Government authorities are called to maintain a discourse that favors public debate and freedom of expression.** The IACHR and its Office of the Special Rapporteur recall that public officials have the duty to ensure that their pronouncements do not cause harm to the rights of those who contribute to public deliberation by expressing and disseminating their thought, such as journalists, media outlets, and human rights organizations, and should heed the context in which they express themselves to ensure that their expressions do not amount to, in the words of the Court, "a form of interference with or pressure impairing the rights of those who intend to contribute to public deliberation by means of expression and dissemination of its thought."³⁵⁶

256. **Attacks and aggression against the media violate the right to freedom of expression in both its individual and collective dimension and cannot be tolerated in a democratic society.** Principle 9 of the IACHR's Declaration of Principles on Freedom of Expression states: "[t]he murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the state to

³⁵¹ Presidência da República. June 25, 2020. [Decreto Nº 10.405](#).

³⁵² Document sent to the IACHR by civil society in the context of a public hearing on Freedom of Expression in Brazil of the 177 Period of Sessions. Available at: Archive of the Office of the Special Rapporteur for Freedom of Expression.

³⁵³ UOL. August 26, 2020. [Justiça manda Twitter apresentar dados de perfis da plataforma Sleeping Giants](#); Asociación para el Progreso de las Comunicaciones. December 9, 2020. [Ofensiva contra Sleeping Giants Brasil puede crear peligroso antecedente](#).

³⁵⁴ ANJ. August 3, 2020. [Robôs impulsionam boicote a marcas que aderiram ao Sleeping Giants, aponta estudo feito por grupo da UFRJ](#); El País. August 19, 2020. [El movimiento Sleeping Giants mina la red de desinformación del gurú de Jair Bolsonaro](#).

³⁵⁵ Folha de Sao Paulo. December 12, 2020. [Sleeping Giants está formado por pareja de 22 años del interior de Paraná](#).

³⁵⁶ I/A Court H. R. *Case Ríos et al v. Venezuela*. Preliminary Objections, Merits, Reparations and Costs. Judgment of January 28, 2009. Serie C No.194. Par. 139.

prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive due compensation.”

257. **The use of criminal mechanisms to punish speech on matters of public interest, especially speech related to public officials, is incompatible with inter-American standards.** The IACHR has held that “[t]he sort of political debate encouraged by the right to free expression will inevitably generate some speech that is critical of, and even offensive to those who hold public office or are intimately involved in the formation of public policy.”³⁵⁷ Therefore, according to Principle 10 of the Declaration of Principles, “The protection of a person’s reputation should only be guaranteed through civil sanctions in those cases in which the person offended is a public official.” In addition, the IACHR has held repeatedly that the application of the criminal law to punish expression referring to public officials is disproportionate when involving protected speech, such as information or expression about matters of public interest, and violates the right to freedom of expression.³⁵⁸

258. **The inter-American human rights system explicitly prohibits prior censorship.** Principle 5 of the Declaration of Principles on Freedom of Expression establishes that, “Prior censorship, direct or indirect interference in or pressure exerted upon any expression, opinion or information transmitted through any means of oral, written, artistic, visual or electronic communication must be prohibited by law. Restrictions to the free circulation of ideas and opinions, as well as the arbitrary imposition of information and the imposition of obstacles to the free flow of information violate the right to freedom of expression.”

259. **Government transparency and accountability strengthen democratic systems.** Principle 4 of the Declaration of Principles on Freedom of Expression of the IACHR establishes that, “Access to information held by the state is a fundamental right of every individual. States have the obligation to guarantee the full exercise of this right. This principle allows only exceptional limitations that must be previously established by law in case of a real and imminent danger that threatens national security in democratic societies.” Taking into account the principle of maximum disclosure, the law must guarantee access to public information that is effective and as broad as possible, and the exceptions must not, in practice, become the rule. Additionally, the exceptions regime must be interpreted restrictively, and any questions must be resolved with transparency and access.

260. **Freedom of expression applies to the Internet the same as to other media outlets.** The Office of the Special Rapporteur recalls that human rights—and in particular, the right to freedom of expression—have found in the Internet a unique tool for extending their enormous potential to broad sectors of the population. The importance of the Internet as a platform for enjoying and exercising human rights is directly linked to network architecture and the principles governing it, including the principle of openness, decentralization, and neutrality.³⁵⁹

261. **The distribution of government advertising must be guided by democratic criteria and preestablished procedures that are public and transparent and that guarantee equal opportunity.** Article 13(3) of the American Convention establishes: “The right of expression may not be restricted by indirect methods or means, such as the abuse of government or private controls over newsprint, radio broadcasting frequencies, or equipment used in the dissemination of information, or by any other means tending to impede the communication and circulation of ideas and opinions.” Likewise, the Inter-American Commission on Human Rights’ Declaration of Principles on Freedom of Expression states in its Principle 13 that “The exercise of power and the use of public funds by the state, the granting of customs duty privileges, the arbitrary and discriminatory placement of official advertising and government loans; the concession of radio and television broadcast frequencies, among others, with the intent to put pressure on and punish or reward and provide privileges to social communicators and communications media because of the opinions they express threaten freedom of expression, and must be explicitly prohibited by law.”

³⁵⁷ IACHR. [Annual Report 1994. Chapter V: Report on the Compatibility of "Desacato" Laws with the American Convention on Human Rights](#). OEA/Ser.L/V/II.88. Doc. 9. Rev. February 17, 1995.

³⁵⁸ IACHR. [Annual Report 2015. Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter V (Conclusions and Recommendations). OEA/Ser. L/V/II. Doc. 48. December 31, 2015.

³⁵⁹ IACHR. Office of the Special Rapporteur for Freedom of Expression. [Freedom of Expression and the Internet](#). OEA/Ser.L/V/II. IACHR/RELE/INF. 11/13. December 31, 2013; IACHR. Office of the Special Rapporteur for Freedom of Expression. [Standards for a Free, Open and Inclusive Internet](#). OEA/Ser.L/V/II CIDH/RELE/INF.17/17. March 15, 2017.

CANADA

262. While Canada is one of the safest States in which to practice journalism, the Office of the Special Rapporteur observed repeated obstructions to the work of the press during 2020, especially in relation to indigenous issues. The Office of the Special Rapporteur also notes the national Supreme Court rulings interpreting so-called “anti-SLAPP” laws, which aim to prevent or mitigate the impacts of strategic lawsuits brought by individuals or corporations to discourage or preclude speech about matters of public interest that could harm their reputation.

A. Progress

263. The Office of the Special Rapporteur was informed that, in June 2020, the criminal mischief charge against journalist Justin Brake related to his 2016 coverage of an indigenous protest at the Muskrat Falls hydroelectric plant for the TV channel *The Independent* was dismissed.³⁶⁰ The journalist’s trial had been scheduled to begin in July. According to information provided by the media, this decision marked the end of a nearly four-year legal battle for Justin Brake, who faced both civil and criminal charges after entering and staying for a few days at the Muskrat Falls hydroelectric plant to report on an occupation of the industrial zone by indigenous nations. The civil charges were dismissed in 2019 by the Newfoundland and Labrador Court of Appeal, which underscored the importance of ensuring the fullest availability of independent information on Aboriginal issues, including Aboriginal protests. In the criminal proceeding, the charges of contempt of court had already been dropped; only the criminal mischief charge, which carried a penalty of more than \$5,000, remained.

264. The Office of the Special Rapporteur additionally learned that on September 10, the Supreme Court of Canada issued two complementary rulings on Ontario’s anti-SLAPP (strategic lawsuit against public participation) law: *Bent et al. v. Platnick, et al.* and *1704604 Ontario Ltd. v. Pointes Protection Association, et al.* This is the first time that the Supreme Court has interpreted this type of legislation, which aims to prevent or mitigate the harmful and chilling effects of SLAPPs, or “strategic lawsuit against public participation,” on speech in the public interest.³⁶¹ In these decisions, the Court established principles for the interpretation of Ontario’s anti-SLAPP legislation and stressed the importance of protecting freedom of expression in matters of public interest. It further held that the law can be invoked in any proceeding involving speech in the public interest and not just in defamation suits.

B. Restrictions on and criminalization of the practice of journalism

³⁶⁰ Global News. June 30, 2020. [Legal battle for journalist charged after covering Muskrat Falls protest](#); CBC. June 30, 2020. [All charges dismissed against reporter who covered 2016 Muskrat Falls protests](#); The Telegraph. June 30, 2020. [Last remaining charge against reporter Justin Brake’s Muskrat Falls-related coverage dismissed](#); Alberta Prime Times. June 30, 2020. [Legal battle concludes for journalist charged after covering Labrador protest](#).

³⁶¹ The Globe and Mail. September 10, 2020. [Supreme Court ruling stresses right to sue to protect reputation](#).

265. The Office of the Special Rapporteur was informed that, on February 6, 2020, the Royal Canadian Mounted Police reportedly obstructed the work of journalists attempting to cover police operations in indigenous protest camps in northern British Columbia, where Wet'suwet'en land defenders have been resisting a court order to vacate their land and unblock roads for the construction of the Coastal GasLink pipeline project. In addition to preventing them from filming or photographing the protests and arrests, the police reportedly threatened members of the press with arrest, ordering them to leave the scene.³⁶² According to reports, when they refused to leave, *Vice News* freelance writer and photographer Jesse Winter and an unnamed *Mutual Aid Media* filmmaker were placed in police vehicles against their will and taken to a fast-food restaurant away from the protests. The journalists said they were not formally arrested or charged with any crime.

266. Police also reportedly detained Jerome Turner, a reporter for the local news website *Ricochet*, near the protest camp and held him for eight hours. The officers argued that the journalist was within the media "exclusion zone."³⁶³

267. In the wake of public reaction to the limitations on journalistic work, a police spokesman issued a statement saying that the Royal Canadian Mounted Police "respects the fundamental freedom of the press" and that "the RCMP will make every reasonable effort to allow media personnel to get as close as possible to the enforcement area."³⁶⁴

268. On February 24, Royal Canadian Mounted Police officers also arrested U.S. documentary filmmaker Melissa Cox while she was covering the blockade by Wet'suwet'en land defenders of a railroad track near New Hazelton, British Columbia, in opposition and resistance to the construction of the natural gas pipeline.³⁶⁵ The reporter was capturing the events for her next documentary, *Yint'ah*. According to a statement released by her colleagues and producers of the documentary, Melissa Cox was wearing her press credential from the National Association of Press Photographers, which was clearly visible. Her colleagues reported that the police used excessive force to arrest the documentary filmmaker as she was filming the arrest of Gitxsan's hereditary chief, Spookw.³⁶⁶

269. On March 16, the Committee to Protect Journalists (CPJ) expressed concern about the repeated harassment of journalists covering the protests against the construction of the gas pipeline and urged police authorities to allow them to do their job and report freely on matters of public interest.³⁶⁷

270. The Office of the Special Rapporteur was also informed that, on August 21, Canadian immigration authorities at Vancouver International Airport denied entry to Kristian Lindhardt, a Danish journalist working on an independent documentary about indigenous resistance to the expansion of the Trans Mountain pipeline in British Columbia.³⁶⁸ Lindhardt, who also works for the Danish Broadcasting Corporation and other media, was planning to do a radio report on the subject. Upon his arrival at the airport, guards from the Canadian Border Services Agency interrogated him for about four hours, mainly about whether he qualified as an essential worker during the COVID-19 pandemic. Despite presenting his journalistic

³⁶² Vice. February 6, 2020. [RCMP Are Raiding Wet'suwet'en Land Defender Camps](#); The Narwhal. February 6, 2020. [Canadian Association of Journalists condemns RCMP crackdown on reporters in Wet'suwet'en territory](#); The Guardian. February 6, 2020. [Canadian police arrest activists at Wet'suwet'en anti-pipeline camp](#); CPJ. February 7, 2020. [CPJ calls on Canadian police to let journalists work freely at indigenous protest sites](#); Amnesty International Canada. February 7, 2020. [RCMP crackdown on journalists in Wet'suwet'en territory threatens free press](#).

³⁶³ Ricochet. February 8, 2020. [Ricochet journalist detained for eight hours while covering RCMP raid](#); CTV News. February 10, 2020. [Journalists say RCMP blocked efforts to cover police raids on Wet'suwet'en camps](#); Committee to Protect Journalists (CPJ). February 11, 2020. [Canadian police detain, obstruct journalists covering raid on pipeline protesters](#);

³⁶⁴ [Twitter Account of Ricochet Media \(@ricochet_en\)](#). February 7, 2020.

³⁶⁵ CPJ. February 26, 2020. [Canadian police arrest journalist and filmmaker Melissa Cox as she reports on rail blockade](#); RSF. February 27, 2020. [Canadian police arrest American journalist covering indigenous protest](#); Pov Magazine. February 17, 2020. [Filmmaker Melissa Cox arrested by RCMP while documenting events at rail blockade](#); Women in Journalism. February 29, 2020. [Canada: American Journalist Melissa Cox's Arrest Exposes Problems with Press Freedom](#).

³⁶⁶ Yint'ah Film / Medium. February 26, 2020. [Statement on the Arrest of Documentary Filmmaker Melissa Cox](#).

³⁶⁷ Committee to Protect Journalists (CPJ). March 16, 2020. [CPJ calls on Canadian police to allow journalists to freely cover matters of public interest](#).

³⁶⁸ The Tyee. August 22, 2020. [A Danish Journalist Arrived to Cover the TMX Pipeline. The Guard at YVR Decided to Deport Him](#); CBC. August 23, 2020. [Danish journalist covering Indigenous opposition to Trans Mountain pipeline denied entry to Canada](#); CTV News. August 24, 2020. [Danish journalist denied entry at YVR, says border officer told him he wasn't essential](#); Committee to Protect Journalists (CPJ). September 21, 2020. [Canada denies entry to Danish journalist Kristian Lindhardt covering Indigenous land rights](#).

credentials—among other documents and forms—he was forced to board a flight back to Copenhagen the next day. Various local and international journalists’ organizations and unions condemned the incident and stressed that the pandemic should not be used to hinder journalistic work.³⁶⁹ In a statement sent to the media, the Canadian Border Services Agency said that journalists are allowed into the country “if they can prove there is a requirement for them to be physically in Canada,” and that the decision is made by border officials on a case-by-case basis.³⁷⁰

271. On September 2, Ontario police brought criminal charges against indigenous journalist Karl Dockstader for allegedly defying a court order and damaging property after he had spent several weeks covering demonstrations by the Six Nations of the Grand River indigenous group against the McKenzie Meadows housing construction project in Caledonia, Ontario.³⁷¹ According to information received by the Office of the Special Rapporteur, Dockstader has been covering the demonstrations since July for a program on indigenous affairs which he co-hosts on the Niagara regional radio station *610 CKTB*. The program focuses on local indigenous issues in Caledonia, which includes the Six Nations of the Grand River, a community with a long history of land disputes. The reporter is also said to have camped out at the site from August 23-29 to report on the protests. When he went to the Ontario Provincial Police Headquarters at the request of the officers, Karl Dockstader was arrested. According to the information available, the court order barred him from communicating with the owners or employees of Foxgate Developments, the company behind the construction project.

272. Two other journalists who had covered these demonstrations were also arrested on the same charges. Courtney Skye, a media commentator and indigenous policy researcher at the Yellowhead Institute at Ryerson University in Toronto, was arrested on September 3 and barred from communicating with the project developer.³⁷² In addition, Starla Myers, an indigenous journalist and reporter for *Real People’s Media*, was arrested on September 16, 2020.³⁷³ According to the media outlet where she works, Myers was also barred from returning to the site or communicating with Foxgate employees. They also alleged that the journalist had not signed the summons to appear in court.

C. Freedom of expression on the internet

273. In August 2020, the Ontario Superior Court granted PEN Canada permission to intervene in the Canadian Constitutional Foundation’s (CCF) 2019 constitutional challenge to section 91 of the Canada Elections Act.³⁷⁴ The law makes it a crime to attempt to influence an election by making or publishing certain false statements about candidates or “public figures associated with a political party” during elections. It imposes the penalties of a fine of up to \$50,000 and imprisonment of up to five years. “Free speech is the cornerstone of any democratic society, and fake news is a real and serious problem,” said Brendan de Caires, Executive Director of PEN Canada. “Our intervention in this case will assist the Court in understanding how Canadian law recognizes freedom of expression in the context of the growing threat of fake news and the potential future impacts on the democratic process.” In the lawsuit filed last year, the CCF argued that the

³⁶⁹ International Federation of Journalists. August 25, 2020. [Canada: Danish journalist covering indigenous protests not allowed into Canada](#). The Yee. August 26, 2020. [Press Groups Slam Deporting of Danish Journalist Covering Pipeline Fight](#).

³⁷⁰ CBC. August 25, 2020. [International Federation of Journalists urges Canada to guarantee access after Danish journalist denied entry](#); The Yee. August 26, 2020. [Press Groups Slam Deporting of Danish Journalist Covering Pipeline Fight](#).

³⁷¹ CBC. September 4, 2020. [Indigenous journalist says OPP charges hinder his ability to cover Six Nations land struggle](#); IFJ. September 8, 2020. [Canada: Indigenous journalist arrested over his reporting on a land dispute](#); Committee to Protect Journalists (CPJ). November 9, 2020. [Canadian police block reporting on Indigenous land demonstrations](#); The New York Times. September 21, 2020. [An Indigenous Canadian Journalist Was Covering a Protest. Then He Got Arrested](#).

³⁷² The Globe and Mail. September 4, 2020. [Journalist and researcher vow to fight charges related to Ontario land dispute](#); Global News. September 4, 2020. [Indigenous journalist, academic speak out against charges in Caledonia, Ont. land dispute](#); The Eye Opener. September 17, 2020. [Indigenous Policy Researcher Arrested for Land Defending at 1492 Land Back Lane](#).

³⁷³ Real People’s Media. September 16, 2020. [RPM Journalist Starla Myers arrested by the OPP for reporting on 1492 Land Back Lane](#); Global News. September 17, 2020. [Another Indigenous journalist faces charges tied to injunction at Caledonia development](#); The Hamilton Spectator. September 17, 2020. [‘We are effectively being silenced’: Second Indigenous journalist arrested in Caledonia land dispute](#); Women in Journalism. [Canada: Arrest of Real People’s Media Journalist Starla Myers for Reporting on 1492 Land Back Lane is Proof of Prejudice Against Indigenous Journalist](#); Committee to Protect Journalists (CPJ). November 9, 2020. [Canadian police block reporting on Indigenous land demonstrations](#).

³⁷⁴ PEN Canada. August 25, 2020. [PEN Canada intervenes in OSC case regarding Section 91 of Elections Act. New section includes prohibitions and penalties that violate Charter right to free expression](#); Law Times. October 5, 2020. [Court hears constitutional challenge to election law prohibiting certain false statements](#).

prohibitions and penalties provided for in the Electoral Law constitute a violation of the right to freedom of expression under the Canadian Charter of Rights and Freedoms, making it unconstitutional. They also contend that it is overly broad and an ineffective weapon against fake news.

274. During 2020, the Office of the Special Rapporteur also became aware of several instances of court-ordered internet domain blocking. In November 2019, Canada’s Federal Court had issued the first nationwide “pirate” site blocking order, directing the country’s major internet service providers to block several domains whose content allegedly violated copyright law.³⁷⁵ The order was requested by the media companies Bell, Rogers, and Groupe TVA. In January 2020, the companies asked the court to amend the order to block additional domains. Their request was granted, resulting in the blocking of 11 other domains and sub-domains. The Office of the Special Rapporteur learned that the multimedia companies have asked the court several times to change the list of blocked sites, so between June and July several sites were unblocked and new ones were added to the list. The B.C. Civil Liberties Association has stated that the constitutional right to freedom of expression “hangs by a thread” due to this court battle.³⁷⁶

275. The Office of the Special Rapporteur also took note that the Law Commission of Ontario (LCO) published its final report on “Defamation Law in the Internet Age” in March.³⁷⁷ The LCO is a legal reform agency whose mandate focuses on improving access to justice and promoting legal reform in Ontario. This final report is the end product of a four-year process in which the LCO considered how best to reform Ontario’s defamation law in response to rapid technological advances. The report notes that “the internet is now the arena in which much, if not most, defamation occurs,” which “has had an unprecedented impact on the two core values underlying defamation law: freedom of expression and protection of reputation.” After examining a wide range of substantive and procedural issues, the document makes 39 recommendations aimed at updating defamation laws, promoting access to justice, and involving internet intermediaries in the handling of defamatory speech on the web. Some of the main recommendations include (a) repealing the Libel and Slander Act and replacing it with a new Defamation Act; (b) imposing positive obligations on internet intermediaries, such as taking down allegedly defamatory content if the person who posted it does not respond within two days of receiving notice; (c) providing that actions for defamation may only be brought against a party who has performed an “intentional act,” eliminating the potential liability of intermediaries who merely host the speech but play no “active” role; (d) establishing a sort of government-created “online dispute resolution” tribunal, which provides a quick and inexpensive means of resolving defamation claims and other forms of online harm, as an alternative to costly and time-consuming court proceedings.

D. Academic freedom

276. In October, Verushka Lieutent-Duval, a professor in the Faculty of Arts at the University of Ottawa, was suspended after using a term considered racist while teaching a virtual class on art and sexual identities. In explaining the concept of “reappropriation”—how some communities have appropriated terms used against them in the past to give them a new meaning—the professor cited the example of the word “nigger,” considered the worst insult to the Black population because of its past linked to slavery, but currently used in some community circles, such as hip-hop.³⁷⁸

277. Verushka Lieutent-Duval’s suspension sparked a protest at the university, as well as an extensive national debate.³⁷⁹ A group of professors at the University of Ottawa published a letter in the professor’s defense, emphasizing that “it is important that university administrations, while helping to uncover and abolish all forms of systemic racism, ensure that the transmission of knowledge, the development of critical

³⁷⁵ Torrent Freak. [Canadian Pirate Site Blockade Expands with New Domains](#).

³⁷⁶ Vancouver Courier. August 10, 2020. [Internet site blocking battle invokes Canadians’ information rights](#).

³⁷⁷ Law Commission of Ontario. [Defamation Law in the Internet Age. Final Report](#). March 2020; Cision. March 12, 2020. [Law Commission of Ontario Launches Final Report: Defamation Law in the Internet Age](#); Osler. March 13, 2020. [Law Commission of Ontario recommends sweeping changes to law of defamation to address challenges of internet age](#).

³⁷⁸ The Globe and Mail. October 21, 2020. [University of Ottawa professor at centre of controversy involving racial slur says she regrets actions](#); CBC. October 21, 2020. [Ottawa professor apologizes for using N-word, regrets growing controversy](#); CBC. October 21, 2020. [University of Ottawa professor at centre of controversy involving racial slur says she regrets actions](#); El País. October 24, 2020. [Una palabra sacude una universidad canadiense](#) [One word shakes a Canadian university].

³⁷⁹ Ottawa Citizen. October 20, 2020. [Professor’s use of racial slur ignites uOttawa debate](#); National Post. October 27, 2020. [Majority of Canadians support suspended Ottawa professor’s use of racist language, in context: poll](#).

thinking and academic freedom is protected.”³⁸⁰ Similarly, the Canadian Association of University Professors described the action taken by the University of Ottawa as worrying, noting that the professor’s words were spoken in the context of a class, were related to the subject matter being studied, and had a pedagogical intent, and were therefore protected by academic freedom. “A higher education institution does not fulfill its mission if it forbids ideas expressed in the classroom, however controversial they may be,” they underscored. For his part, Quebec’s Prime Minister François Legault expressed concern about the administrative measure taken by the university, warning that it violates academic freedom and could become a “slippery slope.”³⁸¹

278. Based on the events documented in 2020, which mainly include restrictions on journalistic coverage, judicial measures that would appear to clash with the open, plural, and decentralized nature of the internet, and the undermining of academic freedom, the Office of the Special Rapporteur wishes to recall that:

279. **Journalism is the primary and principal manifestation of freedom of expression and States have a positive obligation to provide a safe working environment for the press.** In this regard, the Inter-American Court has also held that “it is essential that journalists [...] should enjoy the necessary protection and independence to exercise their functions comprehensively, because it is they who keep society informed, and this is an indispensable requirement to enable society to enjoy full freedom.”³⁸² In the context of social protests, journalists, videographers, photojournalists, and other media workers covering the protests play a key role in gathering and disseminating information, including on the actions of the security forces and potential violence. As the IACHR has stated, freedom of expression protects the right to record and disseminate any incident.³⁸³ For all these reasons, the State must provide the press with the highest level of protection so that it can carry out its work freely and keep society informed about matters of public interest.

280. **Freedom of expression applies to the internet in the same way as it does to all media.** This Office reiterates that restrictions on freedom of expression on the internet are only acceptable when they comply with the international standards that provide, *inter alia*, that they must be prescribed by law, pursue a legitimate aim recognized by international law, and be necessary to achieve that aim (the “three-part” test). They further emphasized that “[m]andatory blocking of entire websites, IP addresses, ports, network protocols or types of uses (such as social networking) is an extreme measure—analogue to banning a newspaper or broadcaster—which can only be justified in accordance with international standards, for example where necessary to protect children against sexual abuse.”³⁸⁴

281. **Academic freedom is fundamental to the strengthening of democracy.** The IACHR has emphasized the vital role of universities as centers of critical thinking and the exchange of ideas.³⁸⁵ On this subject, the U.N. Committee on Economic, Social and Cultural Rights has stated that “the right to education can only be enjoyed if accompanied by the academic freedom of staff and students.”³⁸⁶ It added that “[m]embers of the academic community, individually or collectively, are free to pursue, develop and transmit knowledge and ideas, through research, teaching, study, discussion, documentation, production, creation or writing. Academic freedom includes the liberty of individuals to express freely opinions about the institution or system in which they work, to fulfil their functions without discrimination or fear of repression by the State or any other actor, to participate in professional or representative academic bodies, and to enjoy all the internationally recognized human rights (...).”

³⁸⁰ Fulcrum. October 19, 2020. [Group of professors pen letter to U of O administration denouncing treatment of professor Lieutenant-Duval](#); Vice. October 20, 2020. [University Professors Band Together to Defend Colleague’s Use of N-Word](#).

³⁸¹ CBC. October 20, 2020. [Quebec premier warns of ‘censorship police’ after Ottawa professor suspended for saying N-word](#); Montreal Gazette. October 20, 2020. [Premier Legault denounces treatment of Ottawa professor who used N-word](#).

³⁸² I/A Court H.R., *Case of Ivcher Bronstein v. Peru. Merits, Reparations and Costs*. Judgment of February 6, 2001. Series C No. 74, paras. 147-150.

³⁸³ IACHR. [Protest and Human Rights](#). OEA/Ser.L/V/II CIDH/RELE/INF.22/ September 19, 2019, para. 355.

³⁸⁴ United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression, and the African Commission on Human and Peoples’ Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information. [Joint Declaration on Freedom of Expression and the Internet](#). June 1, 2011.

³⁸⁵ IACHR. Country Reports Nicaragua. [Gross Human Rights Violations in the Context of Social Protests in Nicaragua](#). OEA/Ser.L/V/II. Doc. 86. June 21, 2018. Para. 170.

³⁸⁶ United Nations. Committee on Economic, Social and Cultural Rights. [General Comment No. 13. The Right to Education \(article 13 of the Covenant\)](#). E/C.12/1999/10. 8 December 1999, para. 38.

CHILE

282. Social demonstrations, against the backdrop of restrictions triggered by the COVID-19 pandemic, were also one of the defining features of the year in Chile. Once again, the Office of the Special Rapporteur documented the excessive use of force during these demonstrations, resulting in members of both the security forces and violent groups being injured and detained. Victims included local and international reporters and camerapeople.

283. This Office also tracked the various impacts of the COVID-19 pandemic on the country. Of particular concern are the barriers to accessing public information on the management of the health crisis itself and the numbers of people infected. There were also reports of obstacles to journalistic practice, vulnerability of media professionals to the pandemic, mass layoffs in different public and private media, and the closure of print media outlets.

284. The Office of the Special Rapporteur has also taken note of at least two legal initiatives that seek to curb the spread of so-called fake news: one in the context of elections and the other in connection with managing health crises.

A. Progress

285. In a July 6 decision, the Supreme Court denied an *amparo* action [petition for a constitutional remedy] that had been filed against *Red de Televisión Chilevisión S.A.* (CHV) after the April 14, 2019 airing of “The History of Kidnapping under Dictatorship,” which reported on a series of alleged irregular adoptions that took place in the 1970s and 1980s. The Third Chamber of the Supreme Court concluded that in this case freedom of information prevailed over the right to honor. The action had been filed by Teresa Edenhalm Elmgren on behalf of her mother Anna-María Elmgren Söderquist who, from Chile, had allegedly helped in the adoption process of several children during the dictatorship and who, according to the plaintiff, had been defamed in the report. In its ruling, after highlighting the role of freedom of expression, the Supreme Court noted “[that], in the instant case, the respondent has merely produced and aired a television program on the investigation of allegedly irregular adoptions, currently before the respective criminal court, in which reference is made to the plaintiff. This case, then, involves the disclosure of a publicly relevant fact. As such, freedom of information takes precedence over the right to honor, given the citizens’ right to know about those publicly relevant events and acts, which stems from the importance or general significance of the facts themselves.” The Court added, “[c]onsequently, interference in the sphere of another’s honor is justified on the grounds of public interest, by the public relevance of the matter; precisely because, in such cases, the right that has been infringed (another’s honor) is considered to be of lesser value than society’s right to form an opinion on the denouncing of potentially criminal acts (SCS Case N°s 18.748-2018; 17.732-2016 & 37.505-2015).”³⁸⁷

286. On July 17, a petition for a constitutional remedy that was filed in November 2019 against the Minister of the Interior, Gonzalo Blumel, and the Chief of the Chilean National Police (*Carabineros de Chile*),

³⁸⁷ Diario Constitucional. July 7, 2020. [CS rechaza recurso de protección por emisión de reportaje televisivo sobre una serie de supuestas adopciones irregulares](#); La Razón. July 7, 2020. [Corte Suprema rechaza petition for a constitutional remedy por emisión de reportaje televisivo: “prevalece la libertad de información por sobre el derecho al honor”](#).

Mario Rozas, for the indiscriminate use of buckshot during the social protests, was admitted. The action was filed by the Chilean Association of Journalists, the Medical College, the University of Chile Student Federation, and the Pontifical University of Chile Student Federation, among other organizations, in the midst of mass protests in which hundreds of people were injured (especially with eye injuries) as a result of the indiscriminate firing of bullets and buckshot by the Chilean police. The petition sought an immediate halt to the use of shotguns using steel, lead, or rubber bullets or buckshot and an order for the police to suspend the use of these weapons against demonstrators.³⁸⁸

287. In addition, the Office welcomes the preparation of the report “Guidelines for Quality Communication in a Pandemic” that the University of Chile submitted to the Social Roundtable led by the Ministry of the Interior. The document, written by journalists and academics, reflects the public’s need for true and accurate information, and establishes criteria and measures for different stakeholders including authorities, public and private organizations, the media, and citizens. The authorities are given the task of communicating a strategy for dealing with the crisis and providing timely information on an ongoing basis. It calls on the media to seek greater pluralism as well as “orienting coverage toward the needs of audiences, clearly establishing ethical and social responsibility criteria with vulnerable groups, communicating with a gender perspective and local relevance, delivering specialized information that is accessible to the general public, and preventing the risks of sensationalism and the stigmatization of specific groups.”³⁸⁹

B. Attacks, threats and intimidation against journalists and the media

288. On January 13, *El Mercurio* of Antofagasta was attacked by a group of masked individuals. The newspaper was ransacked, its equipment destroyed, and the premises set on fire. A group of employees who were on site took shelter and had to put out the fire. The newspaper had already been attacked at least three times in recent months.³⁹⁰

289. The Office of the Special Rapporteur received information about an alleged case of intimidation and threats against journalist Angelo Auil, a correspondent for *Cooperativa* and member of the Regional Council of Arica and Parinacota, after he published an article about alleged wrongdoing in the issuing of safe-conduct passes needed for travel during the quarantine. According to the information received, the journalist’s mother, who is an employee of the Ministry of Housing and Urban Development, received a warning call from the regional housing secretary complaining about the article published by her son.³⁹¹

290. On July 13, journalist Nicolás Poblete Riesco of the digital media outlet *Capsular* reported that he had been subject to intimidation by Luis Emilio Pino, a property developer on the coast of Valdivia and owner of the company *Pilolcura Limitada y Agrícola Curiñanco Ltda.* Pino filed a petition for a constitutional remedy against Poblete after the journalist published a video report in which Lafkenche communities denounced alleged “irreparable” environmental harm to their surroundings. According to the businessman’s complaint, the journalist has published “totally biased” information. Poblete Riesco considered the legal action to be an attempt to harass and persecute journalists.³⁹²

291. The Office was also informed about alleged cyberattacks on media outlets. For instance, *Chile Today News* reported a cyberattack against it that began on October 3 and brought down its website for at least 10 days.³⁹³ On October 15, the news portal of *La Razón* suffered a cyberattack that prevented them from accessing content for several hours until the paper’s technical staff was able to restore the server.³⁹⁴

³⁸⁸ Chilean Journalists’ Association. July 14, 2020. [Avanza recurso contra Blumel y General Rozas por uso indiscriminado de balines durante protestas sociales.](#)

³⁸⁹ Diario U. Chile. August 27, 2020. [U. de Chile presenta informe a Mesa Social sobre pandemia y cobertura comunicacional.](#)

³⁹⁰ Committee to Protect Journalists (CPJ). January 17, 2020. [Masked attackers ransack Chilean newspaper, break equipment and set fires; Cooperativa.](#) January 13, 2020. [Edificio de El Mercurio de Antofagasta fue atacado por una turba.](#)

³⁹¹ Chilean Journalists’ Association. June 1, 2020. [Colegio de Periodistas rechaza llamado a familiar de periodista que reveló irregularidades en GORE Arica.](#)

³⁹² Infogate. July 13, 2020. [Periodista denuncia intimidación de inmobiliarias de la costa valdiviana tras acción legal en su contra;](#) El Periodista. July 12, 2020. [Periodista sufre acción legal tras denunciar daño ambiental en cuencas de la costa valdiviana por parte de inmobiliarias;](#) Chilean Journalists’ Association. July 25, 2020. [#Valdivia Derecho a la comunicación e inmobiliarias: el caso de Nicolás Poblete.](#)

³⁹³ Twitter account of Chile Today News (@ChileTodayNews). [October 13, 2020.](#)

³⁹⁴ La Razón. October 25, 2020. [La Razón denuncia un ataque informático a su sitio web de Noticias.](#)

292. The Office of the Special Rapporteur received information about threats and intimidation directed at journalists and the media in the days leading up to the national plebiscite. Carolina Trejo Vidal, a foreign correspondent and journalist for various community and academic media, as well as the leaders of various organizations, received a pamphlet allegedly from an ultra-right-wing group that contained personal information and accused them of treason.³⁹⁵ Claudio Salinas, Marcelo Osses, and Juan Guillermo, members of *Radio Plaza Dignidad*, were also threatened, as was Monica Pizarro of *Radio 1 de Mayo* in La Victoria.³⁹⁶ Dutch correspondent Boris van der Spek of Chile Today News received explicit death threats via email from an unknown person.³⁹⁷

293. In Iquique, journalist Gonzalo Oñate received threats via social media during the October 25 plebiscite. The fake account from which the threat was made published personal information and the number of the polling station where he was assigned to vote that day.³⁹⁸

294. The Office of the Special Rapporteur was informed of various obstacles to the work of the press during the coverage of the national plebiscite on October 25. These obstacles reportedly ranged from attempts to deny press credentials to independent journalists, to the absence of lists of media outlets authorized to enter polling stations, to the banning and expulsion of journalists from polling stations and during the vote count, and even the detention of some media workers.³⁹⁹ One journalist was arrested in Aysén and his mobile phone was also confiscated.⁴⁰⁰

295. On November 5, journalist Jenny Pérez, from the German channel *Deutsche Welle*, reported that she had been threatened with death after publishing an interview with a political leader. According to the information available, the journalist is said to have questioned “his highly apocalyptic outlook on the likelihood of a new Chilean constitution.”⁴⁰¹

C. Social protest

296. During 2020, the country witnessed the continuation of demonstrations that first started in October 2019 in response to fare increases in the public transportation system. However, due to the crisis caused by the COVID-19 pandemic, social demonstrations have been restricted by general measures such as quarantines and a ban on gatherings.

297. During the coverage of the protest of students from the Liceo Bicentenario Mercedes Fritis Mackenney in Atacama, who were demanding the elimination of the University Selection Test (PSU), police officers reportedly arrested photographer Israel Chávez of *Diario Atacama* and assaulted independent journalist José Manuel Gutiérrez. According to reports, police officers hindered the work of the media by putting up shields. A local prosecutor reportedly told the media that Chavez would be released, but that he could be summoned at any time by the Prosecutor’s Office to provide details on the case. The prosecutor also reportedly said that there was no evidence that the photographer had been injured. At the same event, equipment belonging to cameraman Felipe Piñones of *Desierto de Atacama Televisión* was also damaged.⁴⁰²

³⁹⁵ Edición Cero. October 16, 2020. [Denuncian amenazas a periodistas por parte de grupos de ultraderecha que se identifican con la esvástica](#); El Desconcierto. October 19, 2020. [Comunidades de escuelas de Periodismo repudian las amenazas a profesionales de las comunicaciones](#); Diario U Chile. October 19, 2020. [Escuela de Periodismo de la U. de Chile repudia y llama a investigar amenazas contra académica Carolina Trejo](#).

³⁹⁶ Chilean Journalists’ Association. October 22, 2020. [Amenazas a médicos y periodistas: atentan contra defensores de DDHH y vulneran el derecho a la comunicación](#).

³⁹⁷ Association of International Press Correspondents. October 18, 2020. [Nueva amenaza de muerte contra corresponsal de la prensa extranjera en Chile](#); Twitter account of the Chilean Journalists’ Association (@ChilePeriodista). [October 18, 2020](#).

³⁹⁸ Edición Cero. October 25, 2020. [En la desesperación ridícula amenaza a periodista iquiqueño donde ponen hasta el número de mesa en la que vota](#).

³⁹⁹ Chilean Journalists’ Association. November 3, 2020. [Colegio de Periodistas de Chile observó limitaciones al trabajo de la prensa durante las elecciones](#).

⁴⁰⁰ Chilean Journalists’ Association. November 3, 2020. [Colegio de Periodistas de Chile observó limitaciones al trabajo de la prensa durante las elecciones](#); Observatory on Communication Rights. November 5, 2020. [Newsletter No. 6 of the Observatory on Communication Rights](#), p. 4.

⁴⁰¹ International Network of Journalists. November 9, 2020. [Condena la RIPVG amenazas contra la periodista Jenny Pérez](#); Twitter Account of the World Association of Women Journalists and Writers (@AMMPE_WORLD). [November 5, 2020](#).

⁴⁰² Chilean Journalists’ Association. January 6, 2020. [Nuevo atentado a la libertad de expresión en Atacama en medio de protestas](#); Diario Chañarillo. January 7, 2020. [Periodistas condenan arresto de fotógrafo durante protestas del lunes](#).

298. On March 8, the Association of International Press Correspondents in Chile—which represents journalists based in Chile who work for international agencies and media—denounced attacks on the foreign press during the protests that have been taking place throughout the country since October 2019. The statement notes that on March 6 two journalists were injured during a protest. One of them was French Press Agency (AFP) cameraman Jaime Esquivel, who was beaten and pepper-sprayed by a group of eight people after refusing to stop recording the events.⁴⁰³ Marcelo Hernandez, then a photographer with the ATON Agency, was also hit in the face by a tear gas canister, resulting in an eye injury.⁴⁰⁴

299. On April 26, police arrested Damian Trujillo, a cameraman with the *Prensa Latina* Latin American News Agency, while covering a protest in the Plaza de la Dignidad—popularly known as Plaza Italia—in Santiago.⁴⁰⁵ At the same time, journalist Grimanesa Riquelme was also harassed and verbally abused by a police officer who threatened to arrest her.⁴⁰⁶ Riquelme had asked Trujillo to film police officers who were trying to obstruct her work, and almost immediately six other officers jumped on him, forced him into a van, and took him into custody. A *TeleSUR* correspondent managed to capture the arrest on video and posted it on social media.⁴⁰⁷ The cameraman was taken to the 19th Police Precinct, located in the municipality of Providencia, where he was detained for approximately three hours and then released. The cameraman was visibly wearing his credential and had a valid safe-conduct pass to be in the square.⁴⁰⁸

300. On May 1, police personnel detained media workers who were covering a live Labor Day demonstration in Santiago's Plaza Dignidad and tried to block the protest with water cannons.⁴⁰⁹ Demonstrators and union leaders were also reportedly arrested at the same event. At least 57 people were reported to have been arrested.⁴¹⁰ The Association of International Press Correspondents (ACPI) reported that 15 media professionals were “put in a police van and taken to the 9th Police Precinct in Providencia.”⁴¹¹ Later, after the demonstration was over, at least five other reporters were arrested—one of whom had already been arrested hours earlier. According to the Chilean Observatory on Communication Rights, *Señal 3 de La Victoria* responded to these events by filing a petition for a constitutional remedy with the Santiago Court of Appeals, which was dismissed on May 29.⁴¹² General Enrique Bassaletti, Chief of Police for the Eastern Metropolitan Zone, justified the police action, saying that “Not all of them had their credentials and cell phones, and therefore it was appropriate in this case to make sure that they were indeed journalists.”⁴¹³ However, the journalists maintained that they did have valid credentials and safe-conduct passes, and that they performed their work under the proper health conditions as required during the COVID-19 pandemic;⁴¹⁴ some videos and images reportedly show the journalists explaining to the officers that they had the right to be in the streets because of their journalistic profession.⁴¹⁵

301. Some of the detained journalists were representatives of international media, including cameramen Jaime Esquivel of *Agence France Presse*, Luis Hidalgo of the *Associated Press*, and Ivan Alvarado of *Reuters*; others were members of the local media, such as journalist Rodrigo Pérez and producer Alejandra Pacheco of *TVN* (Chilean public television), and journalists Francisca Sandoval Astudillo, Gabriel Cardozo Silva, Gerardo

⁴⁰³ Deutsche Welle. March 9, 2020. [Chile: denuncian agresiones a la prensa internacional](#); p. 12. March 9, 2020. [Agresiones a la prensa extranjera en Chile](#).

⁴⁰⁴ Deutsche Welle. March 9, 2020. [Chile: denuncian agresiones a la prensa internacional](#); p. 12. March 9, 2020. [Agresiones a la prensa extranjera en Chile](#).

⁴⁰⁵ TeleSUR. April 26, 2020. [Detienen a camarógrafo de Prensa Latina en Santiago de Chile](#); El Desconcierto. April 26, 2020. [Denuncian detención de camarógrafo por grabar a carabineros en Plaza de la Dignidad](#).

⁴⁰⁶ El Desconcierto. April 26, 2020. [Denuncian detención de camarógrafo por grabar a carabineros en Plaza de la Dignidad](#).

⁴⁰⁷ Twitter account of Paola Dragnic (@PaoladrateleSUR). [April 26, 2020](#).

⁴⁰⁸ TeleSUR. May 1, 2020. [Carabineros de Chile detiene a reporteros en actos de 1 de mayo](#).

⁴⁰⁹ El Mostrador. May 1, 2020. [Día del Trabajador: Carabineros detiene a dirigentes y prensa en Plaza de la Dignidad y frente a la CUT](#); Twitter account of the Observatory on Communication Rights (@OdcChile). [May 1, 2020](#).

⁴¹⁰ CNN Español. May 1, 2020. [Protesta en Chile termina con 57 detenidos, incluida una persona que dio positivo a coronavirus](#).

⁴¹¹ ANRed. May 1, 2020. [Chile: 15 comunicadores fueron detenidos por cubrir protesta en Plaza Dignidad](#).

⁴¹² Observatory on Communication Rights. June 1, 2020. [Newsletter No. 1 of the Observatory on Communication Rights](#), p. 1.

⁴¹³ Diario Uchile. May 1, 2020. [Periodistas y dirigentes son detenidos durante manifestaciones por el Día del Trabajador](#).

⁴¹⁴ Chilean Journalists' Association. May 1, 2020. [Colegio de Periodistas denuncia que el Estado de Chile viola la libertad de prensa y el derecho a la información](#); ANRed. May 1, 2020. [Chile: 15 comunicadores fueron detenidos por cubrir protesta en Plaza Dignidad](#).

⁴¹⁵ CNN Español. May 1, 2020. [Protesta en Chile termina con 57 detenidos, incluida una persona que dio positivo a coronavirus](#).

Cortes, and Gonzalo Barrido of *Señal Tres La Victoria*, among others.⁴¹⁶ Some of them were even able to make cell phone recordings as they were arrested and placed in the police vehicle.⁴¹⁷

302. That same day, in demonstrations organized in Anibal Pinto Square in Valparaíso, police arrested journalist Danilo Ahumada, a reporter for UPLA TV (a television channel of Playa Ancha University) who also serves as regional president of the Chilean Journalists' Association. Ahumada was covering these demonstrations.⁴¹⁸ Although he was later released, the Public Prosecutor's Office and the Valparaíso Regional Government filed a criminal complaint against him for disorderly conduct.⁴¹⁹ Also in Valparaíso, a reporter from *CNN Chile* was attacked with pepper gas and several reporters had water cannons directed at them at close range.⁴²⁰ A photographer from *La Estrella de Valparaíso* was detained.⁴²¹

303. The Deputy Secretary of the Interior, Juan Francisco Galli, reportedly justified the police actions against the press during the May 1 demonstrations on *Radio Cooperativa*. He is reported to have said, "If the press fails to comply with the rules of public order, it is appropriate." In response to these statements, the Chilean Journalists' Association sent a letter on May 8 to the ministry's spokesperson, demanding clarification of "the executive's position on the role and practice of the press."⁴²²

304. On May 12, journalist Dino Pancani was arrested and taken to the Peñalolén police station.⁴²³

305. On May 15, police officers allegedly assaulted journalist Marc Dezinord while he was covering a gathering of workers demanding their wages from a food company.⁴²⁴

306. On the night of May 22, Victor Torres, a news photographer from *Señal 3 de La Victoria*, was detained in the municipality of Pedro Aguirre Cerda while investigating a distinctive smell of tear gas that numerous neighbors were complaining about on social media. He was intercepted by police officers who—despite the fact that he had a safe-conduct pass—arrested him, threw him on the floor of their van, and took him to the police station. He was beaten and his work tools were damaged. At the police station he was handcuffed and all his belongings were confiscated.⁴²⁵

307. On the night of May 29, a cameraman from the *TeleSur* crew was allegedly subjected to an identity check by police, which was intended to prevent him from documenting a protest that was taking place in the Lo Hermida neighborhood, in the Metropolitan region. The police officer reportedly failed to return the cameraman's identification card to him.⁴²⁶

308. On July 22, during coverage of protests against the decision to grant house arrest to Martin Pradenas—a man accused of raping a young woman named Antonia Barra⁴²⁷—*Ufromedios* cameraman Carlos Morales Cárdenas was reportedly arrested and assaulted by police in Temuco, in the region of La Araucanía. As recorded by other media, Morales Cárdenas was violently detained while doing his job by a group of police

⁴¹⁶ La Vanguardia. May 2, 2020. [La policía chilena detiene a 15 periodistas que cubrían la manifestación del 1 de mayo](#); Politika. May 1, 2020. [Chile, estado policial: persecución y detención masiva de prensa extranjera durante el 1 de mayo](#).

⁴¹⁷ El Tipógrafo. May 1, 2020. [Video: Equipo del matinal de TVN es detenido en vivo por Carabineros](#).

⁴¹⁸ Chilean Journalists' Association. May 2, 2020. [#Valparaíso: Periodistas rechazan detención ilegal del presidente del Colegio Regional y académico Danilo Ahumada](#); Biobiochile.cl. May 1, 2020. [Captan detención de presidente regional de Colegio de Periodistas durante protestas en Valparaíso](#).

⁴¹⁹ Observatory on Communication Rights. June 1, 2020. [Newsletter No. 1 of the Observatory on Communication Rights](#).

⁴²⁰ Twitter account of UP La Radio (@UPLaRadio). [May 1, 2020](#).

⁴²¹ Soy Chile. May 1, 2020. [Credencial en mano carabineros detiene a reportero gráfico de La Estrella de Valparaíso](#).

⁴²² Chilean Journalists' Association. May 8, 2020. [Por dichos de Interior: Emplazan a ministra Rubilar definir la relación del Gobierno con la prensa](#).

⁴²³ Chilean Journalists' Association. Twitter account (@ChilePeriodista). [May 12, 2020](#).

⁴²⁴ Twitter account of Red de Periodistas y Comunicadores Migrantes (@RPC_migrantes). [May 16, 2020](#); Somos Historia / Facebook. May 15, 2020. Available at: <https://www.facebook.com/somoshisto/videos/249376069639231/>.

⁴²⁵ Ilustrado. May 23, 2020. [Denuncian detención de camarógrafo de Señal 3 La Victoria ¡Lo golpearon y le taparon el rostro!](#); El Desconcierto. May 26, 2020. [Reportero gráfico de Señal 3 de La Victoria denuncia detención ilegal y agresiones por parte de Carabineros](#).

⁴²⁶ Observatory on Communication Rights. June 1, 2020. [Newsletter No. 1 of the Observatory on Communication Rights](#), p. 2.

⁴²⁷ El Mostrador. July 22, 2020. [Caso Antonia Barra: juez rechaza prisión preventiva para Martín Pradenas, dejándolo con arresto domiciliario total](#).

officers who also destroyed his equipment and arrested him on charges of disorderly conduct. There are photos that show the cameraman's bloodied face.⁴²⁸

309. Two reporters who were covering a protest near Plaza Italia were reportedly arrested by police on July 31. One of the detainees was broadcasting live for *Radio Plaza de la Dignidad*, which allowed the incident to be recorded.⁴²⁹

310. The Office of the Special Rapporteur was informed that at least 28 people were arrested during the September 4 demonstrations in Plaza Baquedano (Plaza Dignidad) in Santiago, including "several journalists." According to the information available, law enforcement officers dispersed the demonstration with water cannon trucks and made random arrests. People were allegedly forced into police vans while the Prosecutor's Office authorized the arrests. According to reports, the police beat and pepper sprayed members of the press and arrested *Prensa OPAL* journalist Gianco Raglianti in an incident that was recorded.⁴³⁰ The magistrate's court reportedly found the journalist's arrest unlawful based on videos of the event. The NGO *Defensoría Popular* announced that it would file a complaint against those involved.⁴³¹

311. A group of popular and independent media released a statement on September 21 denouncing police "persecution and repression" of popular journalists and foreign correspondents. In the statement, the group noted that "since before October 18, 2019, but with greater intensity after the beginning of the popular revolt, independent media workers have been detained, gassed, beaten, and subjected to abuse by the militarized police of the Chilean State." The statement mentions the cases of Damián Trujillo, of *Prensa Latina-AhoraTV*; Víctor Torres, of *Señal 3*; Milko Caracciolo, of *Radio de Acción* (San Antonio); Samuel Muñoz, of *Diario el Itihue*; Carlos Escobar, of *Radio Plaza de la Dignidad*; and Gianco Raglianti, of *Prensa OPAL*, who, according to the statement, "have been arrested in recent weeks, handcuffed, and subjected to abuse."⁴³²

312. On September 25, 16 people were also reportedly arrested in Plaza Baquedano (Plaza Dignidad) during a protest by health workers and nurse technicians (TENS), including photojournalist Daniela Parra. Police reportedly dispersed the demonstration that day with tear gas and water cannons.⁴³³

313. The Office of the Special Rapporteur was concerned about reports that a 16-year-old boy had been pushed by a policeman from the Nono Bridge into a very shallow part of the Mapocho River during the October 2 demonstrations. According to the information available, the young man remained unconscious for several minutes until some demonstrators managed to reach him and render assistance. The Eastern Police Station [*Prefectura Oriente de Carabineros*] reported that the incident occurred when several officers dispersed a group of demonstrators who were allegedly creating disturbances on the bridge. The young man was admitted to a clinic with multiple fractures.⁴³⁴ On October 3, the North Central Prosecutor's Office announced the arrest of a police officer after he was charged with "attempted murder" in this case.⁴³⁵ In light of these events, the Association of International Press Correspondents in Chile (ACPI) spoke out about excessive "police zeal" toward "the work done by journalists, camerapersons, and photographers at social demonstrations."⁴³⁶ At the same time, the Chilean Journalists' Association alleged that news media were banned from showing the video that documented the incident.⁴³⁷ In the October 5 demonstrations held to

⁴²⁸ Ufromedios. July 23, 2020. [Colegio de Periodistas de La Araucanía rechaza detención y agresión de Carabineros en contra de camarógrafo de Ufromedios](#); teleSUR. July 23, 2020. [Carabineros de Chile agreden a camarógrafo en medio de protesta](#).

⁴²⁹ Observatory on Communication Rights. August 3, 2020. [Newsletter No. 3 of the Observatory on Communication Rights](#), p. 3.

⁴³⁰ DW. September 5, 2020. [Chile registra segunda jornada de protestas post confinamiento](#); Europa Press. September 5, 2020. [Varios periodistas entre lo 28 detenidos en una nueva jornada de protestas en Chile](#); TeleSUR. September 5, 2020. [Carabineros detiene a periodistas durante protestas en Chile](#).

⁴³¹ Observatory on Communication Rights. October 9, 2020. [Newsletter No. 5 of the Observatory on Communication Rights](#).

⁴³² El Regionalista. September 21, 2020. [Medios de comunicación populares e independientes denuncian represión y persecución](#).

⁴³³ Nodal. September 26, 2020. [Carabineros reprimió a trabajadores de la salud en Plaza de la Dignidad](#); Twitter account of Piensa Prensa TV (@PiensaPrensa). [September 25, 2020](#).

⁴³⁴ BBC Mundo. October 4, 2020. [Joven cae al Mapocho: indignación en Chile al precipitarse al río un menor desde 7 metros de altura tras ser empujado por un policía](#); Diario U Chile. October 3, 2020. [Indignación por adolescente empujado al río Mapocho por personal de Carabineros](#).

⁴³⁵ BBC Mundo. October 4, 2020. [Joven cae al Mapocho: indignación en Chile al precipitarse al río un menor desde 7 metros de altura tras ser empujado por un policía](#); France 24. October 4, 2020. [En Chile se activan las protestas por el policía que lanzó a un joven al río](#).

⁴³⁶ El Desconcierto. October 5, 2020. [Corresponsales extranjeros alertan por el trato policial a comunicadores que cubren las manifestaciones sociales](#).

⁴³⁷ Chilean Journalists' Association. Twitter account (@ChilePeriodista). [October 2, 2020](#).

protest the incident and support the young man, 48 people were arrested across the country.⁴³⁸ On October 4, the Chilean Human Rights Commission (CCHDH) reported that it had filed a complaint against President Sebastián Piñera, Interior Minister Víctor Pérez, and the Chief of Police, Mario Rozas, accusing them of attempted murder in this case.⁴³⁹

314. Reporter Jimmy Ureta recorded the moment he was attacked by police officers while he was filming the arrest of a young man in the middle of the October 14 protests in Puente Alto.⁴⁴⁰

315. On October 18, major demonstrations were held in cities including Valparaíso, Viña del Mar, Antofagasta, Concepción, and Santiago to commemorate the first anniversary of the outbreak of the so-called “social uprising.”⁴⁴¹ The government reported 580 arrests throughout the country.⁴⁴² Some of the arrests reportedly involved journalists. This was the case of Javier Castro, of *La Voz de Maipú*, who was arrested while documenting the arrest of some demonstrators. The journalist was reportedly taken to the Maipú police station despite identifying himself as a member of the press, although he was released an hour later without charge.⁴⁴³ Photojournalist Nicolás Valdebenito was reportedly arrested while covering a church fire. He was released hours after being taken to the 33rd Police Precinct.⁴⁴⁴ Sebastián Silva, a contributor to *Agencia EFE*, was allegedly beaten by police, arrested, and taken to the 3rd Police Precinct where he spent the night. He was reportedly brought before the court more than 24 hours later. The court ruled that his detention was unlawful and ordered his release. According to the information available, the Government of the Metropolitan Region filed a criminal complaint against Silva for disorderly conduct.⁴⁴⁵ Also on October 18, Vladdy Cortés of *La Voz de Maipú* was allegedly assaulted by police officers who intercepted him while he was covering a protest in the Cuatro Álamos neighborhood. The officers reportedly asked him for identification; then one of them asked him to remove his mask and pepper sprayed him.⁴⁴⁶ On October 18, demonstrators also attacked reporter Raúl Gamboni in the Plaza Italia and took his camera, while Rasec Pachecho, a photojournalist for *El Tipógrafo de Rancagua*, was allegedly attacked by masked men.⁴⁴⁷ Photographer Antonio Kadima was hit by a projectile thrown by a demonstrator and had to be treated in a hospital emergency room.⁴⁴⁸ In one of the most serious incidents, the Office of the Special Rapporteur notes the death of Aníbal Villarroel Rojas amidst clashes with police in the town of La Victoria. According to the information available, the young man was shot several times in the chest with buckshot by police officers who were allegedly trying to disperse a group of people who were attacking a police car.⁴⁴⁹

316. After the polls closed in the national plebiscite held on October 25, the police reportedly cracked down on the demonstrators who had gathered in the Plaza de la Dignidad in Santiago. According to reports,

⁴³⁸ CNN Chile. October 6, 2020. [48 detenidos por incidentes a nivel nacional el lunes: 26 corresponden a la RM.](#)

⁴³⁹ Chilean Human Rights Commission. Twitter account (@ComisionChilena). [October 4, 2020](#); Noticias Periodismo Popular. October 5, 2020. [Chile: la comisión de Derechos Humanos presentó una querrela contra Piñera.](#)

⁴⁴⁰ La voz de los que sobran. October 15, 2020. [VIDEO | Notero de radio 7 de Puente Alto registró en vivo el momento en que fue agredido por Carabineros.](#)

⁴⁴¹ BBC Mundo. October 19, 2020. [Masivas protestas en Chile por el primer aniversario del estallido social terminan con incidentes aislados y la quema de dos iglesias](#); El Espectador. October 18, 2020. [Chilenos conmemoran el primer aniversario del estallido social de octubre.](#)

⁴⁴² France 24. October 19, 2020. [Más de 500 detenciones dejó el aniversario del estallido social en Chile](#); Canal 13. October 19, 2020. [Gobierno cifra en 580 los detenidos en el país tras conmemoración a un año del 18-O](#); Twitter Account of the IACHR (@CIDH). [October 19, 2020](#), 6:01 p.m.

⁴⁴³ La Voz de Maipú. October 18, 2020. [Video: Así fue la detención de Javier Castro, reportero LVDM, mientras realizaba un “live en instagram”](#); Doble Espacio. Undated. [Persecuciones y detenciones: las amenazas que viven los reporteros independientes.](#)

⁴⁴⁴ Observatory on Communication Rights. November 5, 2020. [Newsletter No. 6 of the Observatory on Communication Rights](#), p. 3; El Siglo. October 20, 2020. [Las agresiones a comunicadores el pasado 18/O](#); CNN Chile. October 19. [Fiscal señala que no hay detenidos por quema en iglesia de Carabineros: Único arrestado era fotógrafo.](#)

⁴⁴⁵ Observatory on Communication Rights. November 5, 2020. [Newsletter No. 6 of the Observatory on Communication Rights](#), p. 3; La voz de los que sobran. October 24, 2020. [Fotoperiodista de Agencia EFE denuncia golpes y maltratos en detención en Plaza de la Dignidad.](#)

⁴⁴⁶ La Voz de Maipú. October 19, 2020. [Carabiniero de la 25 Comisaría ataca a fotógrafo de La Voz de Maipú en 4 Álamos.](#)

⁴⁴⁷ Chilean Journalists’ Association. October 23, 2020. [Colegios de Periodistas de Chile denuncia agresiones a la prensa en la conmemoración del 18O.](#)

⁴⁴⁸ Observatory on Communication Rights. November 5, 2020. [Newsletter No. 6 of the Observatory on Communication Rights](#), p. 4; Chilean Journalists’ Association. October 23, 2020. [Colegios de Periodistas de Chile denuncia agresiones a la prensa en la conmemoración del 18O.](#)

⁴⁴⁹ Publimetro. October 19, 2020. [Manifestaciones en La Victoria: Gobierno confirma que joven murió en incidentes con Carabineros que actuaron en defensa propia](#); TeleSur. October 20, 2020. [Exigen en Chile investigar crimen relacionado con Carabineros](#) [Chileans demand investigation into police-related crime]; Diario U Chile. October 23, 2020. [Vocero de familia de Aníbal Villarroel: “Por vivir en La Victoria o en Lo Espejo tienes una sentencia de muerte decretada”.](#)

the police fired tear gas at people. Damage to work equipment belonging to journalists from alternative media outlets was also reported.⁴⁵⁰

317. The Office of the Special Rapporteur has received information about different arrests during the demonstrations that take place every Friday. Journalist Claudia Aranda was reportedly detained for five hours on October 23 in the Plaza Italia by police officers who also allegedly took her cell phone.⁴⁵¹ She was reportedly arrested again on October 30.⁴⁵² Demonstrations on November 23 in Santiago were reported to have resulted in the arrest of 46 people nationwide. In the capital, 23 people were arrested, a bus was burned and four police officers were injured.⁴⁵³ Police also reported the arrest of 74 people during demonstrations in Santiago on November 27. Ten of them had previously been arrested for offenses such as robbery with violence.⁴⁵⁴ Throughout that day, police used water cannons and tear gas to disperse the crowd.⁴⁵⁵

318. The Office of the Special Rapporteur also received information about different arrests in the city of Concepción. For example, one reporter captured images showing the arrest of another reporter by the military on October 19.⁴⁵⁶ A radio reporter from *Señal Tentación 106.9 FM* was arrested twice—once on October 5 during a day of demonstrations,⁴⁵⁷ and then on October 25 near a polling station.⁴⁵⁸

319. On November 12, in the town of Bonilla, department of Antofagasta, a member of *Kiwicha Comunicaciones* was violently arrested, thrown to the ground, and handcuffed while an officer pinned him down with a knee to the head. The journalist had recorded the arrest of a group of rescue workers in the middle of the demonstrations that day. At the police station, the journalist was reportedly bullied into deleting his material. The police released him once the material was no longer available for broadcast.⁴⁵⁹

320. On November 18, in Santiago, a photojournalist from the *Libre Edición* newspaper was sprayed with pepper gas by police.⁴⁶⁰

321. Journalist Alison Vivanco reported that she was attacked with a chemical agent sprayed from a police water cannon while covering a demonstration calling for the president's resignation on November 20 in Santiago.⁴⁶¹

322. On November 27, in Santiago, a photojournalist was attacked by a police water cannon from a distance of approximately 20 meters. The jet of water was aimed directly at his body, knocking him to the ground. The journalist sustained bruises on his body and his equipment was broken.⁴⁶² On the same day, in an area where there were no reports of any altercations, a reporter from *Piensa Prensa* was assaulted by a police officer.⁴⁶³

323. Finally, the Office of the Special Rapporteur was also informed of the violent eviction carried out by police and armed civilians on August 1 in the five municipalities of La Araucanía that had been taken over by members of the Mapuche community seeking to bring attention to the plight of Mapuche political prisoners. In the course of these events, ancestral symbols of the Mapuche community were also burned. It also came to

⁴⁵⁰ TeleSur. October 25, 2020. [Denuncian represión de carabineros contra ciudadanos en Chile](#).

⁴⁵¹ El Periodista. October 23, 2020. [Carabineros detiene ilegalmente a corresponsal de prensa en Parque Forestal](#); Corresponsales de Chile. Twitter account (@corresChile). [October 23, 2020](#). 11:23 p.m.; La voz de los que sobran. October 24, 2020. [Denuncian detención ilegal de corresponsal extranjero en las manifestaciones del viernes](#).

⁴⁵² Observatory on Communication Rights. November 5, 2020. [Newsletter No. 6 of the Observatory on Communication Rights](#), p. 3.

⁴⁵³ Noticias por el Mundo. November 24, 2020. [Reportan 46 detenidos en el país por manifestaciones contra el Gobierno – Noticias Chile](#); BioBio Chile. November 24, 2020. [23 detenidos y un bus quemado dejó una nueva jornada de protestas en la capital](#).

⁴⁵⁴ CNN Chile. November 28, 2020. [Carabineros califica de "delincuencia pura y dura" los desmanes en protestas del viernes: 74 detenidos](#).

⁴⁵⁵ DW. November 28, 2020. [Chile: miles vuelven a exigir renuncia de Sebastián Piñera](#).

⁴⁵⁶ Observatory on Communication Rights. November 5, 2020. [Newsletter No. 6 of the Observatory on Communication Rights](#), p. 3.

⁴⁵⁷ Observatory on Communication Rights. November 5, 2020. [Newsletter No. 6 of the Observatory on Communication Rights](#), pp. 3-4; Political Prisoners Concepción. Instagram account. October 5, 2020. [Public statement, day 05/10](#).

⁴⁵⁸ Observatory on Communication Rights. November 5, 2020. [Newsletter No. 6 of the Observatory on Communication Rights](#), pp. 3-4.

⁴⁵⁹ *Kiwicha Comunicaciones* / Facebook. November 12, 2020. [Public condemnation of unlawful detention of a member of Kiwicha Communications](#).

⁴⁶⁰ Twitter Account of Libre Edición (@libre_edicion). [November 18, 2020](#), 9:03 p.m.

⁴⁶¹ Twitter Account of Radio Villa Francia (@rvfradiopopular). [November 20, 2020](#), 8:19 p.m.; El Desconcierto. November 21, 2020. [Con barricadas, enfrentamientos, y heridos por el 'guanaco' finalizó la manifestación exigiendo la renuncia de Piñera](#).

⁴⁶² Observatory on Communication Rights. December 7, 2020. [Newsletter No. 7 of the Observatory on Communication Rights](#), p. 3.

⁴⁶³ Twitter Account of Piensa Prensa (@PiensaPrensa). [November 27, 2020](#), 5:43 p.m.

light that journalist Paola Dragnic had received threats due to her ongoing coverage not only of this event but of all the demands of the Mapuche community.⁴⁶⁴

D. Subsequent liability

324. The Office of the Special Rapporteur received with concern information about criminal proceedings brought against the artistic group LasTesis, which could lead to the criminalization of artistic and protest speech protected by the right to freedom of expression.⁴⁶⁵ According to the information available, on June 12, the National Police of the Fifth Zone filed a criminal complaint with the Public Prosecutor's Office of the city of Valparaíso alleging threats, attacks on authority, and incitement to violence against the police, and accusing four members of the feminist group LasTesis of committing these alleged crimes. The complaint called into question several songs and audiovisual performances produced by this group and disseminated on social media. In particular the police mention the song "*Un violador en mi camino*" ["A rapist in my way"] which has become a powerful symbol of expression condemning gender violence in different parts of the region; and a second video in which this group of activists denounce police abuse in Latin America.⁴⁶⁶

325. The Chilean State informed this Office of the Special Rapporteur that this is a specific complaint about certain events that may constitute common crimes. The State added that, in particular, there are questions about potential incitement to violence that may meet the elements of specific criminal offenses, including calls to "set fire to the *pacos* [police officers]."⁴⁶⁷ However, the members of the group have disputed this content and said that this phrase was not part of the work referred to in the complaint.⁴⁶⁸ The complaint was publicly backed by Chile's Minister of the Interior.⁴⁶⁹

326. Various local media outlets also reported that the Valparaíso Prosecutor's Office had opened an investigation and ordered a series of proceedings, including a request to amend the information provided by the complainant, the National Police. The Valparaíso Prosecutor's Office reportedly has not yet decided whether to open the investigation.⁴⁷⁰

327. The Office of the Special Rapporteur was informed that the members of the LasTesis Collective had been summoned to a January 4, 2021 court hearing for the dismissal of the criminal case with prejudice.⁴⁷¹ That morning, the Valparaíso Magistrate's Court dismissed with prejudice the case against the members of LasTesis originally charged by the Public Prosecutor's Office with assaulting or threatening authorities. At the dismissal hearing, Judge Ingrid Alvial Figueroa granted the prosecution's request to drop the charges, after agreeing that the facts under investigation did not constitute a crime.⁴⁷² In the judge's opinion, the prosecution could not prove any link between what LasTesis said and subsequent attacks on members of the police. She added that it had also not been proven that the statements created a danger for the police, finding that "everything was done in an artistic context."⁴⁷³ LasTesis stated, "We hope that no artist in Chile will have

⁴⁶⁴ Chilean Journalists' Association. August 2, 2020. [Colegio de Periodistas rechaza violencia contra comunidades mapuche y amenazas a la prensa](#); Nodal. August 15, 2020. [La protesta y la violencia transparente un problema ancestral en la Araucanía chilena](#).

⁴⁶⁵ IACHR. Office of the Special Rapporteur for Freedom of Expression. June 29, 2020. [The Office of the Special Rapporteur for Freedom of Expression expresses concern over criminal investigation initiated in Chile against members of Las Tesis](#). Press Release R152/20; Front Line Defenders. June 24, 2020. [Judicial Threat Against Feminist Collective Lastesis](#).

⁴⁶⁶ Deutsche Welle. June 17, 2020. [Chile: policía denuncia a LasTesis por incitar a la violencia en su contra](#); La Tercera. June 16, 2020. [La ofensiva de Carabineros contra "Lastesis" ante la Fiscalía: Acusa incitación de acciones violentas contra la institución](#).

⁴⁶⁷ IACHR. Office of the Special Rapporteur for Freedom of Expression. June 29, 2020. [The Office of the Special Rapporteur for Freedom of Expression expresses concern over criminal investigation initiated in Chile against members of Las Tesis](#). Press Release R152/20.

⁴⁶⁸ Biobiochile.cl. June 18, 2020. [Blumel respalda denuncia de Carabineros contra LasTesis: pueden defender dignidad de la institución](#).

⁴⁶⁹ La Tercera. June 17, 2020. [Blumel respalda ofensiva de Carabineros contra Lastesis: "Tienen todo el derecho de ejercer acciones para defender la dignidad de la institución"](#); Biobio Chile. June 18, 2020. [Blumel respalda denuncia de Carabineros contra LasTesis: pueden defender dignidad de la institución](#).

⁴⁷⁰ elDiario.es. June 29, 2020. [La Policía chilena denuncia a LasTesis por un video contra la violencia policial creado con las Pussy Riot](#).

⁴⁷¹ Archives of the Office of the Special Rapporteur. Email sent October 28, 2020.

⁴⁷² Judicial Branch of the Republic of Chile. January 4, 2021. [JUZGADO DE GARANTÍA DE VALPARAÍSO DICTA EL SOBRESIMIENTO DEFINITIVO DE INTEGRANTES DE "LASTESIS"](#).

⁴⁷³ La Tercera. January 4, 2021. [Tribunal sobresee definitivamente a Lastesis: Hechos denunciados por Carabineros no son constitutivos de delito](#).

to face trial for the content of their work, and that all of us will be able to create freely and without fear of persecution and censorship.”⁴⁷⁴

328. The Office of the Special Rapporteur was also informed that the director of *Radio Bío Bío*, Tomás Mosciatti Olivieri, was sued for 870 million Chilean pesos (approximately US \$1 million) by political operative Eugenio Gonzalez Astudillo. The lawsuit came after the July 6 publication of the article “*Secret Whatsapp: Political operative who pulled strings for Girardi in the Supreme Court threatened Felipe Harboe*,”⁴⁷⁵ that exposed an alleged network of influence surrounding the upcoming nomination of a new Supreme Court Justice.⁴⁷⁶

329. Communist Party representative Hugo Gutiérrez filed a petition with the Inter-American Commission on Human Rights (IACHR) and requested a precautionary measure to suspend a possible ruling by the Constitutional Court that would strip him of his parliamentary immunity. According to the information available, members of Congress from another party filed a petition to have Gutiérrez removed from office after he posted some children’s drawings on Twitter depicting President Sebastián Piñera being shot.⁴⁷⁷ The Office of the Special Rapporteur learned that the Constitutional Court, in a decision published on November 17, denied the request made by ten members of Congress to remove Gutiérrez from office. The allegation was that Gutiérrez had incited public disturbances and endangered many people by supporting marches, the occupation of the subway, and general strikes, in violation of Article 60 of Chile’s Constitution. The Court found that there was insufficient evidence to show that the congressman’s social media posts had any consequences or that he exercised leadership over the people who saw his posts. The Court noted that the decision required an analysis of the principles of constitutional supremacy and fidelity in harmony with the guarantee of freedom of expression, which leads, precisely, to the conclusion that a person cannot be subject to prior censorship. Citing the American Convention on Human Rights, it added that limitations on freedom cannot be broad but—on the contrary—must be narrow. It also notes that speech expressed in a virtual environment is constitutionally protected but recognizes that the speech of a public official is particularly sensitive.⁴⁷⁸ The judgment states that “In the case of representatives or senators who, as depositaries of the nation’s sovereignty, take part in the legislative process and represent the will of the people, the configuration of freedom of expression is particularly sensitive. Political speech is enriched by the exchange of opinions, an essential matter in a democratic society, especially if it is done publicly so that citizens are informed about the opinions of elected officials entrusted with representing the will of the people.”

330. In an October 6 decision, the Santiago Court of Appeals upheld a fine of 100 Monthly Tax Units (about 5 million Chilean pesos) that had been assessed against *Chilevisión Noticias* by the National Television Council (CNTV) on May 29, 2020. The CNTV fine stemmed from a report on the phenomenon known as “*El que baila pasa*” (“Those who dance may pass”) that became popular during the social demonstrations of October 2019. According to the CNTV, the report, which aired in November 2019, was “biased and was shown during children’s hours—which are designated for the protection of minors under 18 years of age—and it downplayed the so-called ‘*El que baila pasa*’ phenomenon and its consequences.” The Court found that “the punishable conduct is established by the levity with which the report was presented, disregarding the effect and influence that it could have on the audience.” In the Court’s opinion, the report was intended “to make behavior that is totally at odds with respect for others, with dictatorial and despotic overtones, look as if it were humorous and peaceful,” thus failing to condemn “the violence that it subsequently entailed.”⁴⁷⁹

E. Freedom of expression and COVID-19

⁴⁷⁴ DW. January 4, 2021. [Chile: Justicia archiva caso de Carabineros contra LasTesis](#); BioBio. January 4, 2021. [LasTesis tras sobreseimiento: “Esperamos que todos podamos crear sin miedo a la persecución”](#).

⁴⁷⁵ Radio Bío Bío. July 6, 2020. [Whatsapp secreto: operador judicial que mueve hilos de Girardi en la Suprema amenazó a Felipe Harboe](#).

⁴⁷⁶ Archives of the Office of the Special Rapporteur. Email sent July 21, 2020; El Minuto. Undated. [Tomás Mosciatti y Radio Bío Bío: demandados por más de un millón de dólares, por el lobbista “El Pingüino”](#).

⁴⁷⁷ El Mostrador. July 31, 2020. [Diputado Gutiérrez presenta dos acciones ante la CIDH para evitar requerimiento de desafuero presentado por parlamentarios oficialistas](#); The Times Chile. July 30, 2020. [PC entregó total respaldo a diputado Hugo Gutiérrez en su presentación ante CIDH](#); Diario Constitucional. August 5, 2020. [Diputado presenta petición ante la CIDH con objeto de suspender posible sentencia del TC](#).

⁴⁷⁸ Diario Constitucional. Constitutional Court of the Republic of Chile. [Judgment No. 8123-20 INHP](#). November 17, 2020; Diario Constitucional. November 18, 2020. [TC dicta sentencia de rechazo respecto de solicitud de cesación en el cargo del Diputado Hugo Gutiérrez](#).

⁴⁷⁹ Publímetro. October 14, 2020. [Corte de Apelaciones ratificó multa contra CHV por nota sesgada sobre “El que baila pasa”](#); Cooperativa.cl. October 14, 2020. [Corte confirmó multa a Chilevisión por nota “jocosa” sobre “El que baila pasa”](#).

331. The Office of the Special Rapporteur has noted with concern the different effects that the contingency arising from the new COVID-19 virus has had on freedom of expression in Chile. According to the available information, the media sector has been affected financially—with mass layoffs and the shutdown of print editions—as well as obstacles in covering issues in general or the pandemic specifically. The authorities have imposed restrictions on movement as a contingency measure in response to the health crisis and, despite being exempt from such measures, journalists have in some cases been detained for allegedly violating them. Journalists have also reported greater difficulty in accessing public information about the pandemic and asking questions at press conferences.

332. There are also reports of disproportionate harassment and controls on the movement of journalists during the pandemic. On June 15, the so-called Single Group Permit came into effect for public utility, security, and media companies. This affected journalists, especially those who work independently.⁴⁸⁰ While the Chilean Journalists' Association has called on the government to lift the requirement for this permit,⁴⁸¹ it has also been working to secure safe-conduct passes for journalists who work independently or do not have an employer.⁴⁸²

333. According to the information received by the Office of the Special Rapporteur, one of the mass layoffs took place at the national channel *TVN Chile*, which then had a second wave of layoffs due to the deepening of the crisis that started in late 2019. In late April 2020, the state-owned channel announced the layoff of 71 employees, 35 of them in the press department. In total, *TVN Chile* has laid off some 164 workers since the end of last December.⁴⁸³

334. This Office also learned of at least 200 layoffs at other media outlets due to the pandemic crisis. For example, the free newspaper *Publímetro* reportedly suspended at least 61 contracts until May 15.⁴⁸⁴ There were also layoffs at media outlets such as *El Mercurio*, where 36 of the 143 people who were let go were journalists.⁴⁸⁵ *Mega*, and *La Red*.⁴⁸⁶ On May 31, it was announced that journalist Monica Gonzalez, who had been critical of the handling of the COVID-19 crisis on previous broadcasts, was leaving the program *Mesa Central* on *Canal 13*.⁴⁸⁷

335. On April 6, the Employment Protection Act went into effect. It is intended to protect workers' incomes and employment relationships when authorities take measures that prevent workers from providing their services—such as quarantines or business closures—for six months or for the duration of the State of Disaster.⁴⁸⁸ However, the Metropolitan Council of the Journalists' Association opposed the application of this law to the media because it would allow employers to suspend contracts and reduce wages “arbitrarily by putting pressure on media colleagues and workers to accept such a situation.”⁴⁸⁹

336. The crisis created by the pandemic reportedly also brought the circulation of some print media to a halt. This was the case of *La Discusión de Chillán*, the second oldest newspaper in the country, founded in 1870. The only other time it had ever stopped circulating was in 1939 because of an earthquake.⁴⁹⁰ On May 15, the free newspaper *Publímetro* went out of print,⁴⁹¹ as did the print editions of *Grupo DF's* magazines

⁴⁸⁰ Diario U. Chile. June 16, 2020. [Colegio de Periodistas exige al Gobierno eliminar medida de salvoconducto colectivo para medios de comunicación](#); El Desconcierto. June 16, 2020. [Limita la libertad de expresión: Colegio de Periodistas exige al gobierno eliminar salvoconducto colectivo para medios de comunicación](#).

⁴⁸¹ Chilean Journalists' Association. June 15, 2020. [Colegio de Periodistas exige al Gobierno eliminar medida de salvoconducto colectivo para medios de comunicación](#).

⁴⁸² Chilean Journalists' Association. July 31, 2020. [Colegio de Periodistas de Chile gestiona salvoconductos a periodistas y trabajadores de la prensa sin empleadores](#).

⁴⁸³ El Desconcierto. April 30, 2020. [Aseguran que TVN vuelve a vivir una ola de despidos este jueves: 71 personas fueron finiquitadas](#); p. 7. April 30, 2020. [TVN anunció nuevos despidos: desvinculó a 71 trabajadores de distintas áreas](#).

⁴⁸⁴ Twitter Account of Publímetro Chile Workers' Union (@Sind_Publímetro). [May 14, 2020](#).

⁴⁸⁵ Twitter Account of Chilean Federation of Television Unions (@FETRATV). [May 21, 2020](#).

⁴⁸⁶ Metropolitan Regional Council, Chilean Journalists' Association. April 27, 2020. [Consejo Metropolitano rechaza aplicación de Ley de Protección al empleo en medios de comunicación](#).

⁴⁸⁷ ADN. May 31, 2020. [Controversia en redes sociales por salida de Mónica González de Mesa Central](#).

⁴⁸⁸ Ministry of Labor and Social Welfare. Government of Chile. [Employment Protection Act](#).

⁴⁸⁹ Metropolitan Regional Council, Chilean Journalists' Association. April 27, 2020. [Consejo Metropolitano rechaza aplicación de Ley de Protección al empleo en medios de comunicación](#).

⁴⁹⁰ La Discusión. March 24, 2020. [A nuestros apreciados lectores: el papel en pausa](#).

⁴⁹¹ Twitter Account of Publímetro Chile Workers' Union (@Sind_Publímetro). [May 14, 2020](#).

Capital and *ED*. It was also learned that *Grupo Copesa* discussed reducing the print editions of the newspaper *La Tercera* to the weekend and ending the printed edition of *La Cuarta* but ultimately decided against it.⁴⁹² On August 25, the newspaper *El Centro*, based in the city of Talca, issued its final print edition and announced that it would be considering a forced liquidation.⁴⁹³

337. There have been complaints during the COVID-19 pandemic about the lack of information for the management of the health crisis. For instance, when it was reported that the country was moving to Phase 4—the point at which infection is no longer traceable—it took more than a week for the disease management protocol to be released.⁴⁹⁴ Journalists have also noted an increased difficulty in carrying out their work as press conferences began to be held virtually because of the health contingency. Journalists from the city of Iquique have been questioning this practice since April, since it does not allow for live questions but requires that questions be sent in advance. Some media outlets have said that their questions have been excluded. They have also drawn the attention of the head of National Defense of Tarapacá, who has been hostile to the press and has accused them of disinformation, leading to further stigmatization of the role of the press.⁴⁹⁵ These same concerns have been raised by the Aysén Regional Council of the Journalists' Association, which complained that region's authorities have placed restrictions on the holding of press conferences.⁴⁹⁶ In Atacama, the regional Journalists' Association alleged that the Regional Government was systematically obstructing access to information in the midst of the pandemic. According to reports, some of the obstacles journalists face are the inability to ask questions, changing schedules for the release of information, and poor communication management.⁴⁹⁷

338. Complaints about lack of pandemic management information were ongoing. In the October 20 report from the Council for Transparency (CPLT), an entity that has been monitoring the Chilean Government's official website on the management of the pandemic, it was noted that there are still gaps in the information provided—even though the government had already been made aware of them. For example, it notes that no information is provided on the total number of negative cases, sources of exposure of newly confirmed cases, type and amount of medical and hospital supplies used, number of tests available, or number of actively employed medical and health care personnel. The report further observes that the official site does not disaggregate data on deaths by gender, nor does it disaggregate data on hospitalization by sector (public/private), municipality, or gender. Nor does it specify the measures for monitoring individuals who are under quarantine orders, or the mechanisms for monitoring compliance with such orders.⁴⁹⁸

339. The CPLT also identified violations of the Transparency Act after auditing 25 health agencies and hospitals. According to the CPLT 76.6% violated the Act as a result of late responses, lack of response, late extensions, and multiple extensions. The audit also found that 87.1% of the requests were registered as expired and unanswered. The CPLT requested a summary investigation by the Undersecretaries of Public Health and Health Care Networks due, specifically, to this repeated failure to respond to requests for access to public information.⁴⁹⁹

340. Chilean journalists have also been exposed to the virus during the pandemic while performing their jobs. One of the most notable cases took place in the Araucanía region where at least eight journalists were infected with COVID-19 after a press conference organized by the Regional Health Ministry without the necessary biosafety precautions and where they had direct contact with people who were infected with the virus, including the regional health secretary. In time, it was reported that one of the journalists was in serious health condition at the regional hospital. The Araucanía regional chapter of the Chilean Journalists' Association announced that it was taking three legal actions, including filing a petition for a constitutional

⁴⁹² IJNet. May 20, 2020. [El coronavirus golpea al papel: diarios y revistas dejan de imprimir en Latinoamérica.](#)

⁴⁹³ El Centro. August 25, 2020. [Las audiencias primero](#); Bío Bío. August 25, 2020. ["Por ahora es lo correcto": diario El Centro publica su última edición tras 31 años de circulación.](#)

⁴⁹⁴ Interferencia. March 25, 2020. [Gobierno tardó más de una semana su protocolo de manejo en la fase 4 del Covid-19.](#)

⁴⁹⁵ RCT Televisión / Facebook. May 20, 2020. [El peligro de las "fakenews" y las rencillas entre el gobierno y periodistas marcan última semana de pandemia en Tarapacá](#); Twitter Account Dani Esquivel (@fridaturbina). [April 24, 2020.](#)

⁴⁹⁶ Journalists' Association of Aysén. Twitter account (@AysenPeriodista). [May 23, 2020.](#)

⁴⁹⁷ Chilean Journalists' Association. June 20, 2020. [Colegio de Periodistas de Atacama denuncia al Gobierno Regional de obstruir acceso a la información durante la Pandemia.](#)

⁴⁹⁸ Council for Transparency. October 20, 2020. [Actualización de identificación de brechas. Reporte consolidado de revisión del sitio web del COVID-19.](#)

⁴⁹⁹ Council for Transparency. October 27, 2020. [Minutes of session N°1139.](#)

remedy that seeks to ensure that journalists and their families receive health care, including testing and possible treatment, and that the Regional Health Ministry takes responsibility for the situation. It will also file a complaint with the Prosecutor's Office and take action with the Superintendence of Health Services.⁵⁰⁰ The Court of Appeals of Temuco ordered all journalists who were at the press conference to take the test.⁵⁰¹ On April 9, journalists who had been invited by the Regional Government of Ñuble for a press conference in Chillán's Plaza de Armas demanded that the government take biosafety measures, holding up what happened in the Araucanía region as a lesson.⁵⁰²

341. The Office of the Special Rapporteur learned about a bill that is in the initial stages of the constitutional process, under study by the Constitution, Legislation, Justice, and Regulations Committee of the House of Representatives, which seeks to amend the criminal code "to directly penalize the spread of fake news related to the current health crisis in our country." The bill, drafted in the midst of the COVID-19 pandemic, is based on the premise that the country lacks "modern legislation capable of effectively prohibiting conduct that promotes the destabilization of government mandates by means of false or biased news." The initiative would impose a term of imprisonment ranging from a medium term of ordinary imprisonment to a minimum term of rigorous imprisonment and a fine of 200 Monthly Tax Units (UTM) on any person who publishes, reproduces, or disseminates, through social networks or other media, fake news intended to hinder the work of the authorities during a health crisis.⁵⁰³

F. Censorship

342. In a May 20 decision, the Third Chamber of the Supreme Court ordered *Radio Bío Bío* to remove the recording of a conversation between a judge and a political operative from its site—and from any other place where it had been published—on the grounds that it had been published illegally. The radio station had made the telephone conversation and its transcript public in April 2019. The conversation reportedly involved local judge Marcela Guerra and political operative John Campos making plans to influence judicial appointments and disciplinary proceedings.⁵⁰⁴ In May 2019, Campos sued the station because the recording had been made without his consent and because he believed it violated his right to honor.⁵⁰⁵ In October 2019, the Court of Appeals dismissed the lawsuit on the grounds that it considered the recording to be in the public interest and on the basis of a constitutional prohibition against prior censorship. This decision was reversed by the Supreme Court.⁵⁰⁶ *Radio Bío Bío* removed the audio and deleted parts of the transcript.⁵⁰⁷

343. The Office of the Special Rapporteur also learned of the attempted censorship of Delight Lab, a group that produces art related to social and environmental crises. The group became known for projecting illuminated words on the buildings of the Plaza Dignidad in Santiago. On May 19, while they were projecting the word "Humanity" a truck with white lights appeared—apparently under police protection—which lit up the spot where the word was being projected to keep it from being visible.⁵⁰⁸ Following their artistic

⁵⁰⁰ Chilean Journalists' Association. March 23, 2020. [Araucanía: Colegio de Periodistas exige sanciones a responsables y reparación para profesionales expuestos a Covid-19](#); Araucanía Diario. April 2, 2020. [8 periodistas contagiados con coronavirus y uno de gravedad](#). Kaos en la Red. April 2, 2020. [Chile. Periodista de La Araucanía se encuentra grave por coronavirus: gremio culpa a autoridad de Salud Katia Guzmán](#).

⁵⁰¹ Chilean Journalists' Association. April 2, 2020. [Araucanía: Corte de Apelaciones ordena realizar exámen Covid-19 a periodistas que estuvieron en conferencias de la Seremi de Salud](#); UATV. Undated. [Corte ordena realizar el examen de COVID-19 a todos los periodistas que estuvieron en conferencias de Seremi de Salud](#).

⁵⁰² Chilean Journalists' Association. April 9, 2020. [En plena cuarentena: Gobierno Regional de Ñuble convoca a punto de prensa alertando al gremio de periodistas](#).

⁵⁰³ House of Representatives of Chile. June 23, 2020. [Modifica el Código Penal para sancionar la propagación, por redes sociales u otros medios de comunicación, de noticias falsas destinadas a entorpecer la labor de la autoridad en períodos de crisis sanitaria](#); Diario Constitucional. June 29, 2020. [Sancionar la propagación de noticias falsas destinadas a entorpecer la labor de la autoridad en períodos de crisis sanitaria propone proyecto de ley](#).

⁵⁰⁴ Committee to Protect Journalists. June 10, 2020. [Chilean Supreme Court orders Radio Bío Bío to remove content from website](#); Biobiochile.cl. May 23, 2020. [Corte Suprema ordena a Radio Bío Bío eliminar de su sitio audio de operador político John Campos](#).

⁵⁰⁵ Committee to Protect Journalists. June 10, 2020. [Chilean Supreme Court orders Radio Bío Bío to remove content from website](#); Biobiochile.cl. May 23, 2020. [Respuesta de Radio Bío Bío a fallo de la Corte Suprema que ordena eliminar audio](#).

⁵⁰⁶ Committee to Protect Journalists. June 10, 2020. [Chilean Supreme Court orders Radio Bío Bío to remove content from website](#); Biobiochile.cl. May 23, 2020. [Corte Suprema ordena a Radio Bío Bío eliminar de su sitio audio de operador político John Campos](#).

⁵⁰⁷ Biobiochile.cl. April 17, 2019. [Audio secreto: el diálogo de dos operadores que buscan apoyo para una candidata a la Suprema en 2018](#).

⁵⁰⁸ El Desconcierto. May 21, 2020. [Delight Lab solicita apoyo a la comunidad cultural: "Tememos por nuestra integridad física"](#); La Tercera. May 20, 2020. [Amenazas, hackeo de Instagram y respuesta a Schalper: la denuncia de los artistas que proyectaron "Hambre" en la Torre Telefónica](#).

presentation, the group was reportedly targeted with stigmatizing remarks by Congressman Diego Schalper. He called them “miserable” and requested an investigation to find out who was behind the projections, which, in the Congressman's words, reflected a “political ideology and agenda, including violence.”⁵⁰⁹

344. Similarly, an art installation by Francisco Tapia was removed by police during the exhibition “*Al Aire Libre*” [“Outdoors”]. The work depicted a policeman hanging from a balcony about to shoot himself in the mouth.⁵¹⁰

G. Internet and freedom of expression

345. The Aurora project of the NGO Amaranta released a report showing that 73% of the 531 women interviewed (cisgender, transgender, and non-binary) had experienced some form of violence on the internet. The most commonly reported attacks included verbal violence, harassment or stalking, the nonconsensual sending of sexual images, defamation, threats, and the loss of or nonconsensual access to accounts. Some of the main culprits were anonymous users or users with fake profiles, partners or former partners, and male acquaintances.⁵¹¹ According to the report, “digital spaces continue to be hostile to women and dissidents, who not only are more exposed to violence on the internet and different platforms but also face a variety of access and knowledge gaps, depending on the particularities of their experiences.” The NGO believes it is important to re-appropriate technology and to generate active knowledge-sharing to prevent, defend against, and resist violence without falling into self-censorship or leaving the internet.⁵¹²

346. Also, according to the information available, on May 17 the Instagram account of the artistic group Delight Lab was hacked and later deleted. On May 18, after projecting the word “Hunger” in reference to the people affected by the COVID-19 crisis, they received emails, personal messages, and insults through social media and their personal accounts. Some users uploaded photos of the group’s members as well as personal data including home addresses.

347. The Pliegue Collective reported that it might have to postpone the premiere of the documentary “18-10,” about the social uprising of 2019, after reportedly discovering an organized strategy aimed at bringing down the internet transmission.⁵¹³ The first part of the documentary was released on YouTube after the plebiscite.⁵¹⁴

H. Legal reforms

348. The Office of the Special Rapporteur took note of a bill under debate in the Senate that seeks to criminalize the denial of human rights violations committed during the military dictatorship that ruled Chile from 1973 to 1990. The bill went to the Senate after Chile’s House of Representatives passed legislation on September 22 that would impose penalties of up to three years in prison on anyone who “justifies,” “approves of” or “denies” those violations. The penalties would apply to speech that “disturbs public order” or “unlawfully prevents, obstructs, or restricts” others’ exercise of their rights. The bill passed with 75 votes; there were 66 votes against it, and one abstention.⁵¹⁵ A group of lawmakers filed a request for the Constitutional Court to rule on the constitutionality of the article.⁵¹⁶ On November 5, the Constitutional Court declared unconstitutional the article that seeks to penalize the denial of human rights violations during the dictatorship. The Court found that the article’s provisions were beyond those applicable to the bill that

⁵⁰⁹ Pousta. [Diego Schalper tildó de «miserable» la intervención en edificio Telefónica](#); CNN Chile. May 21, 2020. [Andrea Gana, de Delight Lab, considera “violento” que Diego Schalper quiera investigarlos](#).

⁵¹⁰ El Desconcierto. May 18, 2020. [Intervención de Francisco Papas Fritas termina con carabiniero detenido](#).

⁵¹¹ Amaranta, Proyecto Aurora. [Informe preliminar. Chile y la violencia de género en Internet: experiencias de mujeres cis, trans y no binarias](#).

⁵¹² El Mostrador. August 4, 2020. [Informe revela que un 73% de las mujeres ha sufrido algún tipo de violencia de género en espacios digitales](#).

⁵¹³ Pliegue. Instagram account. [October 18, 2020](#).

⁵¹⁴ Producciones Pliegue. YouTube channel. October 25, 2020. [\[18-10\] \[Primera parte: Tengo miedo que esto no cambie\]](#).

⁵¹⁵ La Tercera. September 22, 2020. [Pasa al Senado proyecto que tipifica como delito el negacionismo respecto a violaciones a derechos humanos](#); Canal 13. September 22, 2020. [Pasa al Senado proyecto que tipifica como delito el negacionismo respecto a violaciones a DDHH](#); Human Rights Watch (HRW). September 28, 2020. [Chile: Reject ‘Anti-Denial’ Law](#).

⁵¹⁶ Diario U Chile. October 15, 2020. [“Parece un insulto”: organizaciones de DD.HH. critican decisión de Chile Vamos de acudir al TC para frenar ley contra el negacionismo](#); La Tercera. October 27, 2020. [TC acoge a trámite requerimiento de Chile Vamos que busca frenar el avance del proyecto de ley que sanciona el negacionismo](#).

penalizes incitement to hatred. Furthermore, the Court determined that the article passed with a simple quorum when it should have had a qualified majority (i.e., 88 votes) because it amends the constitutional right to freedom of expression. The decision is unappealable.⁵¹⁷ The Court said, “It should be noted that hate speech and incitement to violence have nothing to do with denialism, as is clear from the Human Rights Committee’s General Comment No. 34 on the International Covenant on Civil and Political Rights, of 2011. General Comment No. 34 makes a distinction, stating that Articles 19 and 20 of the Covenant (enshrining freedom of expression and opinion and the prohibition of propaganda for war and the advocacy of national, racial, or religious hatred, respectively) are compatible with and complement one another. However, it establishes an exception in this regard in point 49 of the aforementioned Comment, which states that ‘Laws that penalize the expression of opinions about historical facts are incompatible with the obligations that the Covenant imposes on States parties in relation to the respect for freedom of opinion and expression. The Covenant does not permit general prohibition of expressions of an erroneous opinion or an incorrect interpretation of past events.’” The decision clarifies “There is no doubt that speech that directly incites violence can be penalized. In our case, doing so is also an unavoidable objective of the principle of constitutional supremacy that the Constitution and the law have entrusted us with guaranteeing. Nevertheless, the contested provision violates the freedom to express an opinion guaranteed by the Constitution. It does this by introducing a statutory offense that threatens to allow for the prosecution of mere ideas, opinions, or assessments that, because they are controversial, or even opprobrious or unlawful, may be legally sanctioned in other venues—but criminalizing such speech affects freedom of expression, which, as we have said, cannot be subject to conditions.”

I. Other relevant situations

349. The Committee for the Defense of Public Television held a demonstration on January 16 in front of the TVN building to express their dissatisfaction with the state-owned channel’s situation and to demand that it fulfill its social role. Some committee members made their way into the channel’s offices and voiced their discontent and grievances during the live morning broadcast. They demanded, among other things, that 50% of the high-audience programming be geared exclusively toward reporting on the constitution-drafting process; that the composition of the current board of directors be reevaluated to “reconfigure its membership based on criteria of pluralism and parity, as required by law; and that a broad debate be opened with a view to changing the signal financing model.”⁵¹⁸

350. On March 11, Senators Felipe Harboe, Ximena Rincón, and Kenneth Pugh introduced a bill to regulate access to personal data by politicians and to punish the online publication of lies, fabrications, and anything considered “fake news” intended to influence voter decisions. The bill reportedly asserts that it is “essential for our country to have laws specifically designed to limit political parties’ access to personal data. Global experience shows that democracy can be seriously eroded otherwise, as evidenced by the Cambridge Analytica case.” It also states that “the globalized world has demonstrated that the collection and processing of personal data by political organizations can be detrimental to democracy. In this connection, the freedom of each voter to vote in an informed manner is severely limited if political advertising based on each person’s personal preferences and ideologies is being offered.” According to the bill, “Twenty websites were detected in Chile between August and November 2017 that created at least 80 fake news items, which were shared, viewed, or read 3,507,083 times.”⁵¹⁹

351. The law provides that “accusations, charges, or news referring to facts that may alter the integrity of the upcoming vote and that are deliberately, artificially, automatically, and massively disseminated through a

⁵¹⁷ El Dínamo. November 5, 2020. [Tribunal Constitucional acoge requerimiento en contra de sanciones al negacionismo](#); Cooperativa.cl. November 5, 2020. [TC declaró inconstitucional artículo que sanciona el negacionismo en Chile](#); AP. November 5, 2020. [Chile: tribunal rechaza sancionar negacionistas de dictadura](#); Diario U Chile. November 6, 2020. [Negacionismo: parlamentarios insistirán en trámite del proyecto ante disconformidad de organizaciones por fallo del TC](#).

⁵¹⁸ Diario U Chile. January 16, 2020. [Organizaciones exigen a TVN cumplir su rol público y pluralista](#); El Siglo. January 16, 2020. [Tevito Despertó: Manifestación irrumpió matinal de TVN](#); Chilean Journalists’ Association. January 17, 2020. [Cacerolazo en TVN: Movimiento social exige una televisión pública pluralista y renuncia del directorio](#).

⁵¹⁹ Diario Financiero. August 11, 2020. [Para evitar “Cambridge Analytica” en Chile presentan proyecto que regula datos personales y fake news en política](#); Cámara de Diputadas y Diputados. August 11, 2020. Proyecto de ley que limita el acceso de los partidos a información personal y que regula la propagación de “fake news” en política. Available at: <https://www.camara.cl/legislacion/proyectosdeley/tramitacion.aspx?prmID=14260&prmBOLETIN=13698-07>.

mass communication channel or social network” are not considered election advertising. Telemarketing is also prohibited, as is sending mass instant messaging “without the express consent of the recipient.” Penalties include minimum to medium terms of ordinary imprisonment and fines of 10 to 100 Monthly Tax Units (UTM). In addition, the candidate for the position will be disqualified from the electoral process, and if the person has already been elected, he or she will lose the position.⁵²⁰

352. In addition, the country’s telecommunication companies have spoken out against the Undersecretary of Telecommunications (Subtel) because of two requests that reportedly involve turning over users’ personal data. According to available information, Subtel asked these companies for data on their users, including contact information, in order to conduct a satisfaction survey. The president of the Association of Telecommunications Companies reportedly told Subtel that it was “unnecessary and dangerous” to provide this type of information. The companies were also against the Guaranteed Minimum Speed Act that would implement a system for measuring services to ensure minimum standards. The law would involve installing software in cell phones and computers that would enable speed measurement but would also allow for access to personal customer data, such as georeferencing information, type of technology, hours of use, and other data.⁵²¹

353. According to available information, one year after the social uprising, alleged secret meetings between media directors and government officials—including President Piñera and various ministers—came to light. At these meetings, the participants reportedly reached agreements on how to cover the 2019 demonstrations. The journalists had allegedly been taken off the streets and forbidden from saying “Plaza Dignidad,” among other provisions.⁵²² Also in October, it was alleged that at least five closed-door meetings between TV channel and print media executives and National Police Chief Mario Rozas Córdova had taken place in July 2020.⁵²³

354. The Office of the Special Rapporteur learned of a video game that reportedly simulated killing people such as actress Daniela Vega, journalist Rafael Cavada, and members of the LasTesis Collective, as well as other people associated with the social uprising of 2019. Daniela Vega and Rafael Cavada announced that they would file criminal complaints against the game’s creators.⁵²⁴

355. The Movement for Homosexual Inclusion and Liberation (Movilh) asked the mayors of Santiago and Valparaíso to prevent the circulation of a bus called the “Freedom Bus” financed by the NGO Christian Legislative Observatory. According to Movilh, the bus features hateful messages against sexual and gender diversity.⁵²⁵

356. Based on what has been observed in Chile during 2020, including, *inter alia*, attacks, intimidation, and threats to journalists and the media; restrictions on social protest; court decisions and government practices that endorse censorship; and the use of criminal mechanisms against critical speech, the Office of the Special Rapporteur believes it is especially important to highlight that:

357. **Attacks and assaults on journalists violate the right to freedom of expression in both its individual and collective dimensions and cannot be tolerated in a democratic society.** The Office of the Special Rapporteur recalls that principle 9 of the IACHR Declaration of Principles on Freedom of Expression states that “[t]he murder, kidnapping, intimidation of and/or threats to social communicators, as well as the

⁵²⁰ Diario Financiero. August 11, 2020. [Para evitar “Cambridge Analytica” en Chile presentan proyecto que regula datos personales y fake news en política](#); Cámara de Diputadas y Diputados. August 11, 2020. Proyecto de ley que limita el acceso de los partidos a información personal y que regula la propagación de “fake news” en política. Available at: <https://www.camara.cl/legislacion/proyectosdeley/tramitacion.aspx?prmlD=14260&prmlBOLETIN=13698-07>.

⁵²¹ Emol. August 6, 2020. [Empresas de telecomunicaciones se enfrentan con la Subtel por dos casos que involucran entrega de datos de clientes](#); Twitter account of El Censelio (@censelio). August 6, 2020.

⁵²² La voz de los que sobran. October 28, 2020. [A un año del estallido: Las reuniones secretas de Piñera y sus ministros con altos ejecutivos y rostros de televisión](#).

⁵²³ Verdad Ahora. October 20, 2020. [Las reuniones del General Mario Rozas con los directores de canales y medios de comunicación](#).

⁵²⁴ La Tercera. October 28, 2020. [Daniela Vega y Rafael Cavada se querellarán por videojuego para Android que incita a matarlos](#); El Periodista. October 29, 2020. [Daniela Vega anuncia querrela por videojuego que incita a matarla](#); Canal 13. October 28, 2020. [Daniela Vega anuncia acciones legales contra videojuego en el que se incita a matarla](#); CNN Chile. November 1, 2020. [Paula Escobar y videojuego contra Daniela Vega: “Hay que poner un límite en esta incitación a la violencia y al odio”](#).

⁵²⁵ Movilh. November 17, 2020. [Piden a intendencias de Santiago y Valparaíso prohibir circulación del “Bus de la Libertad” con mensajes de odio](#).

material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the state to prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive due compensation.”

358. **Social protest, which includes the rights to peaceful and unarmed assembly, association, and freedom of expression, is a fundamental tool in the defense of democracy and human rights.** In this regard, the IACHR has said that “in principle, criminalization *per se* of demonstrations in public thoroughfares is inadmissible when they are carried out in exercise of the rights to freedom of expression and to freedom of assembly.”⁵²⁶ In its report on Protest and Human Rights, the Commission noted that criminalization has an intimidating or chilling effect on all of society and can lead to the prevention or inhibition of this type of speech. Furthermore, the IACHR has understood the use of force to be “a last resort that, qualitatively and quantitatively limited, is intended to prevent a more serious occurrence than that caused by the State’s reaction. Within that framework, characterized by exceptionality, both the Commission and the [Inter-American] Court have agreed that for the use of force to be justified once must satisfy the principles of legality, absolute necessity, and proportionality.”⁵²⁷ The IACHR and its Office of the Special Rapporteur have stressed the need to guarantee women’s right to freedom of expression and access to information as a tool to combat gender-based violence. As the Office has stated, “the right to freedom of expression is key in the redress by vulnerable groups of the balance of power among the components of society.”⁵²⁸ Finally, this Office reiterates that protecting the right to freedom of expression means that the authorities must ensure the necessary conditions for journalists to be able to cover events of notable public interest, such as those related to social protests.

359. **The use of criminal mechanisms to punish speech on matters of public interest, especially as it relates to public officials, is incompatible with inter-American standards.** Under Article 13 of the American Convention, speech on matters of public interest enjoys enhanced protection, especially speech that expresses essential elements of identity or denounces violence and structural discrimination. Principle 11 of the IACHR Declaration of Principles on Freedom of Expression states that “[p]ublic officials are subject to greater scrutiny by society. Laws that penalize offensive expressions directed at public officials [...] restrict freedom of expression and the right to information.” Likewise, both the IACHR and the Inter-American Court have repeatedly held that States have a more limited scope when it comes to imposing restrictions on the right to freedom of expression “whenever dealing with expressions concerning the State, matters of public interest, public officials in the performance of their duties, candidates for public office, private citizens involved voluntarily in public affairs, or political speech and debate.”⁵²⁹ They are subject to a greater degree of public scrutiny and criticism, which is justified by the public interest nature of their activities, because “they have exposed themselves voluntarily to heightened scrutiny, and because they have an enormous capacity to call information into question through their power to appeal to the public.”⁵³⁰ The Office of the Special Rapporteur has also insisted on the need not to use vague or ambiguous statutory definitions to criminalize speech that, while it may be offensive, shocking, or irritating to public officials or some part of the population, is an expression of public interest that should not be criminalized in a democratic society.

360. **The inter-American human rights system explicitly prohibits prior censorship.** This is derived from Article 13(2) of the American Convention on Human Rights, and Principle 5 of the Declaration of Principles on Freedom of Expression, which states that “[p]rior censorship, direct or indirect interference in or pressure exerted upon any expression, opinion or information transmitted through any means of oral, written, artistic, visual or electronic communication must be prohibited by law. Restrictions to the free

⁵²⁶ IACHR. [Report on Citizen Security and Human Rights](#). OEA/Ser.L/V/II.Doc. 57. December 31, 2009, para. 197

⁵²⁷ IACHR. [Annual Report 2015](#), Ch. IV A, para. 7.

⁵²⁸ IACHR. Office of the Special Rapporteur for Freedom of Expression. June 29, 2020. [The Office of the Special Rapporteur for Freedom of Expression expresses concern over criminal investigation initiated in Chile against members of Las Tesis](#). Press Release R152/20.

⁵²⁹ IACHR. Annual Report 1994. OEA/Ser. L/V/II.88. Doc. 9 rev. February 17, 1995; IACHR. Annual Report 2009. Report of the Office of the Special Rapporteur for Freedom of Expression. OEA/Ser.L/V/II. Doc. 51. December 30, 2009, para. 100; I/A Court H.R., *Case of Ivcher Bronstein v. Peru*. Judgment of February 6, 2001. Series C No. 74; I/A Court H.R., *Case of Herrera Ulloa v. Costa Rica*. Judgment of July 2, 2004. Series C No. 107; I/A Court H.R., *Case of Ricardo Canese v. Paraguay*. Judgment of August 31, 2004. Series C No. 111; I/A Court H.R., *Case of Palamara Iribarne v. Chile*. Judgment of November 22, 2005. Series C No. 135; I/A Court H.R., *Case of Kimel v. Argentina*. Judgment of May 2, 2008 Series C No. 177.

⁵³⁰ IACHR. Annual Report 2009. Report of the Office of the Special Rapporteur for Freedom of Expression. OEA/Ser.L/V/II. Doc. 51. December 30, 2009, para. 40.

circulation of ideas and opinions, as well as the arbitrary imposition of information and the imposition of obstacles to the free flow of information violate the right to freedom of expression.”

361. **Freedom of expression applies to the internet in the same way as it does to all media.** This Office reiterates that restrictions on freedom of expression on the internet are only acceptable when they comply with the international standards that provide, inter alia, that they must be prescribed by law, pursue a legitimate aim recognized by international law, and be necessary to achieve that aim (the “three-part” test).⁵³¹ Moreover, the Office of the Special Rapporteur has noted that online violence has a chilling effect on the exercise of freedom of expression and, when directed at women, can exacerbate discrimination and inequality.⁵³²

COLOMBIA

362. Since the beginning of 2020 and throughout the year, the Office of the Special Rapporteur documented various acts of surveillance and profiling of journalists, the media, activists, and political opponents by the State. In June, the Rapporteurs for Freedom of Expression of the IACHR and the UN sent a letter to the Colombian State requesting its urgent attention to the alleged activities of irregular use of military intelligence capabilities for the surveillance and profiling of different groups of people between February and December 2019.

363. This Office also observed that there is a worrying pattern of death threats against journalists due to their information work, which in some cases forced them to forcibly leave their cities. Likewise, stigmatizing statements are of particular concern, as well as the use of legal actions by public officials that directly or indirectly violate the right to freedom of expression.

A. Murders

364. This Office was informed about the death of the judicial reporter for the newspaper *Q'hubo* Felipe Guevara, on December 23, after being shot by unknown individuals in the city of Cali, department of Valle de Cauca.⁵³³ According to the Police, the journalist received four bullet wounds: two in the stomach, one in the thorax, and one in the leg. According to the available information, Felipe Guevara had received threats on different occasions, for which reason he had left the Mariano Ramos neighborhood. At a press conference, the Mayor of Cali, Jorge Iván Ospina, pointed out that in 2017 the photojournalist had denounced “threats against his life that were directed to the competent authority”⁵³⁴. According to the information available, the threats are related to his journalistic coverage of criminal gangs operating in that area.

365. The IACHR and its Office of the Special Rapporteur received with particular concern the information on the death of Abelardo Liz, a reporter for the indigenous radio station *Nación Nasa*, on August 13, after receiving several shots while covering a demonstration by indigenous peoples in the municipality of Corinto, department of Cauca. According to information published by the Committee to Protect Journalists (CPJ), community spokespeople indicated that the troops had “fired indiscriminately” at the protesters and had shot

⁵³¹ The United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples' Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information. [Joint Declaration on Freedom of Expression and the Internet](#). June 1, 2011.

⁵³² UN General Assembly. [Safety of Journalists and the Issue of Impunity. Report by the Secretary General](#). A/72/290. August 4, 2017. Par. 12. See also: Fundación Karisma. [Misoginia en internet: bombardeo a campo abierto contra las periodistas](#). February 24, 2016.

⁵³³ Q'hubo. December 23, 2020. [Falleció Felipe Guevara, periodista de Q'hubo herido en Mariano Ramos](#); El País. December 23, 2020. [Falleció el periodista de Q'hubo que fue víctima de atentado en el oriente de Cali](#); France 24. December 24, 2020. [Muere reportero gráfico colombiano tras recibir varios disparos](#); Deutsche Welle (DW). December 24, 2020. [Colombia: muere periodista Felipe Guevara Henao tras atentado](#).

⁵³⁴ France 24. December 24, 2020. [Muere reportero gráfico colombiano tras recibir varios disparos](#).

Abelardo Liz in the chest. It also added that the Corinto hospital lacked the necessary equipment to operate on him and that therefore he died on an ambulance on the way to a hospital in the city of Cali.⁵³⁵

B. Prosecution

366. As the Office of the Special Rapporteur has reiterated in several of its reports, high levels of impunity persist in Colombia with respect to crimes and attacks committed against journalists for reasons related to their information work. It is observed that in many of these cases the reason why these crimes tend to go unpunished is related to the excessive delays in the investigations that lead to the statute of limitations of the cases.

367. In this context, the Office of the Special Rapporteur views with concern the decision of the Municipal Criminal Court of Tumaco (Nariño) to grant freedom to two of those accused of the kidnapping and murder of Javier Ortega, Paúl Rivas, and Efraín Segarra, journalistic team of the newspaper *El Comercio*, which occurred in March and April 2018 on the border between Colombia and Ecuador. Gustavo Alonso Ospina Hernández, alias Barbas, and Gustavo Angulo Arboleda, alias Cherry, were released from jail in June and August 2020, respectively, due to the expiration of the legal terms to start the trial stage.⁵³⁶

368. The journalist Javier Ortega, the photographer Paúl Rivas, and the driver Efraín Segarra were kidnapped on March 26, 2018 in Mataje, an Ecuadorian town on the border with Colombia, by the Óliver Sinisterra front, a FARC dissidence led by Walter Patricio Arízala Vernaza, alias Guacho. On April 13, 2018, President Lenín Moreno confirmed the death of the journalistic team at a press conference. Two years after what happened, their relatives are still waiting to get answers from the governments of Ecuador and Colombia.

369. The Colombian Attorney General's Office questioned that "due to the congestion registered by the Criminal Court of Tumaco" the alleged perpetrators of the attack on the journalists' lives have been released. The agency also said that "the freedoms granted by expiration of terms unquestionably harm the rights of the victims, who demand prompt and timely justice".⁵³⁷

370. Among other judicial decisions that weaken the investigation, punishment of those responsible, and reparation to the victims by the State, in 2020 the Prosecutor's Office ordered to preclude the investigation against Jhon Jairo Velásquez Vázquez, alias Popeye, as the alleged co-author of the murder of the journalist and director of *El Espectador*, Guillermo Cano Isaza. According to the investigating body, "the State loses punitive power after Velásquez Vázquez's death has been proven (on February 6, 2020) since the action cannot continue against him." In any case, it ordered that the investigative effort be continued to determine the other authors or participants in the homicide of the communicator. In addition to Gustavo Adolfo Gutiérrez Arrubla, alias Maxwell, the two would be the only ones investigated so far for the murder of journalist Guillermo Cano Isaza.⁵³⁸

371. In February 2020, a FLIP report indicated that, apart from some documented achievements, the climate with regard to the administration of justice is generally negative, and that the number of cases of journalists who remain in impunity continues to be very high, According to what they indicate, there are 88 cases, in addition to the cases that continue to prescribe.⁵³⁹

⁵³⁵ Telesur. August 15, 2020. [Asesinan a comunicador indígena en región del Cauca, Colombia](#); La Opinión. August 14, 2020. [Muertos dos indígenas por Ejército: periodista, una de las víctimas](#); Committee to Protect Journalists (CPJ). August 18, 2020. [Colombian journalist José Abelardo Liz killed during military attack on Indigenous group](#).

⁵³⁶ El Comercio. August 10, 2020. [Otro procesado por secuestro del equipo de EL COMERCIO queda libre](#); FLIP. August 10, 2020. [La verdad sigue cautiva: Juzgado otorga libertad a otro de los implicados en el secuestro del equipo de El Comercio](#); RCN Radio. August 11, 2020. [En libertad procesado por secuestro y asesinato de los periodistas del diario El Comercio](#); GK. August 25, 2020. [Dos procesados por el secuestro y asesinato del equipo de El Comercio quedaron en libertad en Colombia](#); Infobae. August 25, 2020. [En libertad dos vinculados al asesinato de periodistas ecuatorianos en Colombia](#).

⁵³⁷ El Comercio. August 25, 2020. [Procuraduría General de Colombia cuestiona la liberación de dos procesados por el asesinato del equipo periodístico de Diario EL COMERCIO](#); Pichincha Comunicaciones. August 25, 2020. [Procuraduría de Colombia alerta que liberaron a acusados del secuestro y asesinato de periodistas de El Comercio](#).

⁵³⁸ El Universal. February 6, 2020. [El proceso judicial por el que 'Popeye' regresó a prisión](#); FLIP. December 15, 2020. [El asesinato de Guillermo Cano, 34 años después](#).

⁵³⁹ El Espectador. February 9, 2020. [Estamos volviendo al pasado: FLIP sobre violencia contra periodistas](#).

372. Likewise, on December 10, 2020, several civil society organizations presented a report to the Commission for the Clarification of the Truth, Coexistence, and Non-Repetition (CEV) in which they document six cases of serious human rights violations.⁵⁴⁰ Among them is that of the journalist and comedian Jaime Hernando Garzón Forero, murdered by two hitmen on August 13, 1999 in Bogotá, near the *Radionet* station where he worked. After more than 20 years of his murder, the entire criminal chain that participated in the murder has not yet been sentenced.⁵⁴¹ The report of this group of organizations documents various findings that can help clarify these crimes. It also maintains that in all the investigations that followed there were mechanisms of impunity, preceded by “a long inactivity of the Prosecutor's Office, repeated reassignments of the investigating office, reluctance to link state agents or formulate lines of investigation that point in this regard and identify to top managers, added to an inadequate methodology in the investigation”.⁵⁴²

373. Despite the persistence of high levels of impunity for attacks and violence against the press for reasons related to their work, in 2020 the Office of the Special Rapporteur registered important judicial decisions that constitute progress in its obligation to prosecute.

374. In August, the Administrative Court of Cundinamarca determined that the Administrative Department of Security (DAS), the Prosecutor's Office, and the Ministry of the Interior are responsible for the damage caused to the journalist Claudia Julieta Duque Orrego and her next of kin, as a result of the kidnapping, threats, and psychological torture of which she was a victim since August 1999 for her informative work on the murder of comedian Jaime Garzón.⁵⁴³ The ruling ordered these entities to compensate the victims. Likewise, it ordered the Prosecutor's Office: (i) to design a booklet to share the analysis of the State's responsibility set forth in the judgment; and (ii) to design policies and instructions to carry out criminal investigations in the shortest time possible so that the continuous violations of fundamental rights related to the exercise of journalistic work cease.

375. In 2012, the journalist had filed a claim for direct reparation to the National State for the illegal actions taken against her, as well as for the lack of protection and delays in judicial investigations. The persecution suffered by Julieta Duque was such that for nine years she had to go into exile away from the country three times. In the ruling, the court noted that “The State not only did not protect the plaintiff from said interference or attacks, but it was the same official institutions that carried out such arbitrary and illegal interference in Claudia Duque's private life. Not only for having intercepted her phone calls and for having checked her emails, but for having infiltrated human sources into her security scheme, having built a whole database with unauthorized intelligence information, for having followed up on movements within and outside the country that the applicant made and, in general, because of the siege of which she was a victim”.⁵⁴⁴

376. The Office of the Special Rapporteur received with gratification the distinction to Jineth Bedoya with the Guillermo Cano Unesco Freedom of the Press Award, becoming the first Colombian journalist to receive such distinction. The investigative journalist was a victim of kidnapping, rape, and torture in 2000, when she was working on an investigation into arms trafficking for the newspaper *El Espectador*. Three years later, while working for the newspaper *El Tiempo*, she was kidnapped by militants of the former Revolutionary Armed Forces of Colombia (FARC). “The courage and commitment of Jineth Bedoya Lima, doubly exposed to unacceptable risks as a woman and as a journalist, inspire deep respect,” said Audrey Azoulay, Director-General of UNESCO.⁵⁴⁵ In July 2019, the IACHR submitted to the Inter-American Court Case 12.954 of Jineth

⁵⁴⁰ Comisión Colombiana de Juristas. December 10, 2020. [La Comisión de la Verdad recibió informe sobre patrones del terrorismo de Estado contra personas defensoras de derechos humanos en los años 80 y 90 en Colombia](#); Programa Somos Defensores. December 10, 2020. [Comisión de la Verdad recibió informe sobre agresiones contra personas defensoras de derechos humanos](#); El Tiempo. December 11, 2020. [El enemigo interno, nuevo informe que llegó a Comisión de la Verdad](#).

⁵⁴¹ FLIP. August 12, 2020. [21 años sin Jaime Garzón](#).

⁵⁴² Comisión Colombiana de Juristas. December 10, 2020. [La Comisión de la Verdad recibió informe sobre patrones del terrorismo de Estado contra personas defensoras de derechos humanos en los años 80 y 90 en Colombia](#).

⁵⁴³ El Espectador. August 8, 2020. [El Estado es responsable de la tortura psicológica a Claudia Julieta Duque: Tribunal](#); El Tiempo. August 10, 2020. [Condenan a la Nación por caso de periodista Claudia Julieta Duque](#); International Federation of Journalists (IFJ). August 11, 2020. [Colombia: la Justicia encuentra culpable al Estado por torturar psicológicamente a una periodista](#).

⁵⁴⁴ El Espectador. August 8, 2020. [El Estado es responsable de la tortura psicológica a Claudia Julieta Duque: Tribunal](#); El Tiempo. August 10, 2020. [Condenan a la Nación por caso de periodista Claudia Julieta Duque](#); International Federation of Journalists (IFJ). August 11, 2020. [Colombia: la Justicia encuentra culpable al Estado por torturar psicológicamente a una periodista](#).

⁵⁴⁵ Unesco. April 30, 2020. [#World Press Freedom Day: Colombian journalist Jineth Bedoya Lima receives UNESCO/Guillermo Cano Prize](#).

Bedoya with respect to the State of Colombia for failure to comply with a series of recommendations to the State that aim to carry out a complete, impartial, and effective investigation within a reasonable time.⁵⁴⁶

C. Threats and harassment of journalists

377. The Office of the Special Rapporteur documented several death threats, harassment, and stigmatizing statements against journalists that cover issues of public interest related to corruption and drug trafficking in different regions of Colombia.

378. On February 13, Wilfer Moreno, journalist from the *CNC Noticias* TV channel from the town of Arauca, received a call from a man identified with the pseudonym “Marcos” who ordered him to suspend the transmission of his news space for the 72 hours duration of the armed strike by the guerrillas announced by the National Liberation Army (ELN), which began the following day.⁵⁴⁷ Given the journalist's refusal, the stranger declared him a military target and warned him that he had one hour to leave the city. After the threat, the communicator had to leave the municipality immediately to protect his life. As the Office of the Rapporteur learned, the intimidation occurred after repeated complaints and coverage by the journalist about the ELN's criminal actions.

379. Likewise, journalists Gonzalo Guillén, Julián Martínez, Diana López Zuleta, and Daniel Mendoza Leal have received death threats after revealing the alleged irregularities in the financing of the presidential campaign. According to public information, on March 10, they received a call from a senator who warned of an alleged criminal organization plan for “the three journalists who uncovered the ñeepolítica”.⁵⁴⁸ The case acquired this term in the media after the audios of José Guillermo “Ñeñe” Hernández were published, who claimed to be “the axis of a vote-buying operation on the north coast for today's President Duque.” On March 7, the website *La Oreja Roja*, also linked to the journalistic revelations, had suffered a cyber-attack that affected the operation of the site for a weekend.⁵⁴⁹ The Office of the Special Rapporteur for Freedom of Expression joined the concern of the Foundation for Freedom of the Press (FLIP) in the face of death threats to journalists, and requested the state of Colombia to investigate the events and establish adequate protection measures.⁵⁵⁰

380. On April 13, journalist Eder Narváez Sierra, founder and director of *NP Noticias* and *Teleantioquia* correspondent for Bajo Cauca Antioqueño, received death threats from a person who identified himself as Manuel, commander of “Los Caparrapos”.⁵⁵¹ The threat came after the journalist published a story about the murder of two men that occurred the previous day in the Loma Fresca neighborhood in Cauca. Through WhatsApp messages, Narváez was warned to “stop talking so much”, that the recent murders (for which he assumed responsibility) were “just the beginning” and that “the only news you will hear in a few days is that the guy from NP was killed”. Narváez, who has already received death threats on previous occasions due to his information work, filed a criminal complaint with the Attorney General's Office and also requested assistance from the National Protection Unit, a government entity that executes protection measures for people at risk for political, journalistic, or union activities, among others. On April 19, after continuous threats, the journalist had to forcibly leave his place of residence in the Cauca municipality.

⁵⁴⁶ IACHR. Office of the Special Rapporteur for Freedom of Expression. [CIDH presents case on Colombia to the IACHR](#). Press Release R177/19. July 19, 2019.

⁵⁴⁷ El Espectador. February 14, 2020. [Eln amenaza a periodista de Arauca por no cerrar su medio de comunicación durante el paro armado](#); Confidencial Colombia. February 14, 2020. [ELN declara objetivo militar a periodista que se negó a acatar paro armado en Arauca](#); El País. February 14, 2020. [Periodista fue forzado a salir de Arauca tras ser amenazado presuntamente por el ELN](#); FLIP. February 14, 2020. [Periodista de Arauca tuvo que abandonar el departamento por amenazas](#).

⁵⁴⁸ FLIP. March 20, 2020. [¡Alerta! Senador advierte sobre plan criminal para asesinar a periodistas que publicaron información sobre José Guillermo “Ñeñe” Hernández](#); FLIP. March 21, 2020. [Denuncian plan para asesinar a 4 periodistas colombianos por investigaciones](#); La Nueva Prensa. March 20, 2020. [CIDH exige protección para Gonzalo Guillén, Julián Martínez, Diana López y Daniel Mendoza de ‘La Nueva Prensa’](#).

⁵⁴⁹ La Oreja Roja. March 11, 2020. [La expresión dejó de ser libre](#); FLIP. March 9, 2020. [Periodistas denuncian ataques luego de publicar información sobre José Guillermo “Ñeñe” Hernández](#).

⁵⁵⁰ Twitter account of Edison Lanza (@EdisonLanza). [March 20, 2020](#).

⁵⁵¹ Caracol Radio. April 15, 2020. [Amenazan de muerte a periodista del Bajo Cauca](#); FLIP. April 14, 2020. [Periodista del Bajo Cauca Antioqueño se encuentra en una situación de riesgo inminente](#); Committee to Protect Journalists (CPJ). April 20, 2020. [Periodista colombiano recibe amenazas de muerte luego de informar sobre asesinatos](#).

381. On June 17, a threatening pamphlet signed by FARC dissidents arrived at the home of journalist Dubán García, addressed to him and four other journalists, where they are accused of being accomplices of the Putumayo Government.⁵⁵² The pamphlet was also accompanied by two 556 caliber rifle cartridges, all of which were sent to the judicial authorities for their pertinent investigation.

382. On July 7, unknown persons painted the facade of the house of journalist Phillip Moreno, director of the *Confidencial Noticias* portal, with the insignia of the National Liberation Army (ELN). The acts of intimidation occurred after the publication of two investigations on issues related to this guerrilla.⁵⁵³

383. On the morning of July 17, the journalist from the *Nueva Era Algeciras* community radio station, Juan Alejandro Loaiza, was intercepted and threatened with death while on his way to the center of the municipality of Algeciras, in the department of Huila.⁵⁵⁴ According to the journalist, an unknown man on a motorcycle stopped him and warned him that he had to leave Algeciras or else he was going to pay with his life. Two days later, he had to leave the municipality to protect his life and his integrity. Juan Alejandro Loaiza participates in the morning newscast of the *Nueva Era* radio station, where he has criticized the management of some councilors of the municipality and reported on the difficult public order situation in Algeciras.

384. According to available information, on August 7, eight journalists from the department of Magdalena received death threats from alleged members of the guerrillas of the National Liberation Army (ELN).⁵⁵⁵ On August 7, the journalists received a pamphlet signed by the ELN in which they declared them a “military objective” and warned them that they had a period of 48 hours to leave the country with their families or else “they will face the consequences”. The reporters mentioned in the pamphlet had reported acts of corruption on the part of the departmental administration. According to public information, those affected would be communicators Lina María Peña (*El Artículo*), Cipriano López (*Radio Magdalena*), Yannis Moscote (*Contraportada*), Víctor Polo (*Caracol Radio*), Miguel Martínez (*El Mono TV*), Víctor Rodríguez (*Opinión Caribe*), Aristides Herrera (*Revista 7*), and Leopoldo Díaz Granados (*Seguimiento*).

385. As this Office learned, journalists Amalfi Rosales, Gonzalo Guillén, and Diana López Zuleta were also victims of death threats as a result of the journalistic reports they have made against “Kiko” Gómez. On August 5, a source reportedly contacted Diana López Zuleta to alert her to an assassination plan that was taking place at the “La Curva” farm, owned by Juan Francisco “Kiko” Gómez, located in Fonseca (La Guajira).⁵⁵⁶ The Office of the United Nations High Commissioner for Human Rights in Colombia made a public call to the Prosecutor’s Office to clarify the report.⁵⁵⁷

386. Likewise, on August, journalist Jhonny Coral Bernal from *CNC Noticias* in Nariño and two other journalists whose names were not publicly disclosed, received death threats through calls and WhatsApp messages. The reporters assured that the intimidations began after the publication of a series of journalistic investigations related to the irregular transport of foreigners during the pandemic from the border with Ecuador to the border with Venezuela.⁵⁵⁸

387. The journalist Óscar Castaño, director of the *Oriéntese* program, broadcasted by the *Coredi 90.5 FM* station and the *Acuario Televisión* channel, reported having received a death threat on September 29 from

⁵⁵² Semana. June 18, 2020. [Denuncian amenazas a cinco periodistas en Putumayo](#).

⁵⁵³ FLIP. July 8, 2020. [Con un grafiti el ELN amenaza a periodista en Arauca](#); Diario Libertad. July 8, 2020. [Con un grafiti el ELN amenaza a periodista en Arauca](#).

⁵⁵⁴ FLIP. July 24, 2020. [Periodista comunitario tuvo que salir de Algeciras, Huila, después de recibir amenazas](#); RCN Radio. July 18, 2020. [Periodista de emisora comunitaria en el Huila denunció amenazas de muerte](#); La Nación. July 25, 2020. [Por amenazas periodista salió desplazado de Algeciras](#); Agencia de Periodismo Investigativo. July 19, 2020. [Periodista denuncia amenaza de muerte en Algeciras, Huila](#).

⁵⁵⁵ Noticias Caracol. August 8, 2020. [Amenazan a ocho periodistas en Santa Marta y les dan 48 horas para abandonar el país](#); La Vanguardia. August 9, 2020. [Denuncian que la guerrilla del ELN amenaza a ocho periodistas colombianos](#); RCN Radio. August 8, 2020. [Ocho periodistas del Magdalena fueron amenazados](#); W Radio. August 8, 2020. [Denuncian que ELN amenazó a ocho periodistas: guerrilla lo niega](#); FLIP. August 7, 2020. [Ocho periodistas de Magdalena fueron amenazados a través de un panfleto](#).

⁵⁵⁶ FLIP. August 24, 2020. [La FLIP alerta sobre un nuevo plan para atentar contra tres periodistas que han denunciado hechos criminales de La Guajira](#); Caracol Radio. August 25, 2020. [Periodistas advierten plan para atentar contra sus vidas](#).

⁵⁵⁷ Twitter account of the Office of the United Nations High Commissioner for Human Rights in Colombia (@ONUHumanRights). [August 24, 2020](#).

⁵⁵⁸ Fundamedios. August 18, 2020. [Tres periodistas fueron amenazados en la frontera colombo-ecuatoriana](#); Diario La Libertad. August 18, 2020. [Tres periodistas amenazados en Ipiales, frontera con Ecuador](#); Abra Noticias. August 17, 2020. [A través de llamadas amenazan a periodista en Ipiales](#).

unknown individuals, who left a pamphlet at his home with his name and two photographs.⁵⁵⁹ There, they would have signaled him out for being a "snitch" and of being "getting into what does not concern him." The journalist has made complaints about alleged irregularities in hiring, in the framework of the pandemic, by the municipal governments of Algeria and Granada, department of Antioquia. According to the available information, the communicator has been part of the protection scheme of the National Protection Unit for some years, due to threats previously received.

388. On October 27, journalist Mario Manuel Ubarnes, director of a radio program on the community radio station *Palmitos Estéreo*, reportedly received a threat at his home located in the municipality of San Antonio de Palmito, Sucre, where unknown individuals left a black bag containing a funeral wreath.⁵⁶⁰ According to the information available, the threatening message would be related to reports that the communicator has been making about the theft of cattle in that region, as well as irregularities related to hiring in the municipal administration. Additionally, a municipality leader also received a similar wreath on the same day with a death threat.

389. In mid-November 2020, the journalist Arlex Piedrahíta, from Noticias Caracol, had to go into exile after receiving new death threats for the work he does in the departments of Cauca and Valle del Cauca, in the southwest of the country.⁵⁶¹ According to the information available, on October 16 the journalist received a text message on his cell phone in which they declared him a military target and threatened to kill him and his family. The cameraman had already received threats and harassment in 2019 that would be related to his coverage of judicial issues, public order, and drug trafficking. On that occasion, Arlex Piedrahíta also had to leave his place of residence due to the lack of security guarantees for him and his family, and the lack of diligent and timely responses from the authorities. According to FLIP, although in November 2019 the communicator was at high risk and it was urgent to implement suitable measures, the National Protection Unit took a year to re-evaluate the journalist's risk situation and, according to the organization no progress is yet known in the investigations carried out by the Office of the Attorney General of the Nation into the events.⁵⁶²

390. On the other hand, according to the information received by the Office of the Special Rapporteur, Ricardo Calderón Villegas, who until November 2020 was a journalist and director of investigations of the *Revista Semana*, would have been subjected to constant threats and harassment by the Government and Army agents due to his coverage related to issues of corruption, drug trafficking, paramilitarism, among other issues. The situation would have become even more complex after on January 11, 2020, the media published an investigation that denounced illegal interceptions allegedly carried out by the Army against defenders, judges, politicians, and officials, during 2019⁵⁶³.

D. Stigmatizing statements

391. As discussed in previous reports, the Office of the Special Rapporteur notes with concern the increase in stigmatization of journalists and the media that publish or disseminate information criticizing the Government of Colombia. This context, which arises from high-ranking authorities of the State and public officials, puts at risk the free exercise of journalistic work and undermines the obligation to "adopt a public speech that contributes to preventing violence against journalists."

392. Among other cases, the Office learned that on November 26, former Attorney General Néstor Humberto Martínez Neira, discredited the investigative work carried out by different journalists in the

⁵⁵⁹ Caracol. October 1, 2020. [El periodista Oscar Castaño denunció amenazas de muerte](#); FLIP. October 2, 2020. [Periodista del oriente antioqueño es amenazado a través de un panfleto](#); RCN Noticias. October 2, 2020. ["No sea sapo, metido o tocará actuar con usted", panfleto con el que amenazan a periodista antioqueño](#); Canal Acuario. October 3, 2020. [Dejan panfleto amenazante contra periodista Óscar Castaño](#).

⁵⁶⁰ El Universal. October 28, 2020. [Colocan corona fúnebre a periodista en la puerta de su casa](#); Radio Nacional. October 28, 2020. [Periodista y lideresa social son amenazados de muerte en zona indígena de Sucre](#); FLIP. October 28, 2020. [Amenazan a periodista comunitario en Sucre](#).

⁵⁶¹ El Comercio. November 30, 2020. [Un periodista colombiano se exilia tras recibir nuevas amenazas de muerte](#); RNC Radio. November 30, 2020. [Periodista caleño tuvo que salir del país por amenazas de grupos armados](#); Deutsche Welle (DW). December 1, 2020. [Colombia: Arlex Piedrahíta se exilia tras amenazas de muerte](#); El Tiempo. December 3, 2020. [Camarógrafo tuvo que huir del país por amenazas contra su vida](#).

⁵⁶² FLIP. November 30, 2020. [Nuevas amenazas obligan al periodista Arlex Piedrahita a exiliarse](#).

⁵⁶³ Information received by the IACHR and its Special Rapporteurship in the framework of the request for precautionary measure 207-20. 2020.

framework of a debate session on political control in the First Committee of the Senate. In particular, he singled out Edinson Bolaños, a reporter for *El Espectador*, questioning his independence as a journalist and baselessly accusing him of not having published all of the information to cover up someone.⁵⁶⁴ Likewise, he had publicly announced his intention to file a claim against the journalist María Jimena Duzán for mentioning the alleged order that he had given to intercept politicians and negotiators of the Peace Agreement. FLIP indicated that it is aware that due to this matter, Néstor Humberto Martínez “has already judicially harassed Duzán, through various protection actions that seek to muzzle the press and prevent it from reporting on matters related to his management, alleging the violation of his fundamental rights to honor and good name”. These remedies have already been ruled in favor of the journalist.

E. Arbitrary detentions and physical violence against journalists

393. According to information reported to the Office, on June 15, photojournalists were illegally detained by the National Police in Medellín while covering the demonstrations against the measures taken by the national government in the face of the COVID-19 pandemic, and also for cases of corruption and police abuse. The reporters, who belonged to *Periferia Prensa*, *AquinoTicias*, *Ab_zurdo Colectivo*, among others, were physically attacked and saw some of their work equipment damaged by the police forces, and later seven of them were detained and transferred to different police stations and Immediate Reaction Units.⁵⁶⁵ Juan Carlos Londoño, one of the detained reporters, described the police as “totally out of control,” according to the Committee to Protect Journalists (CPJ).⁵⁶⁶ Hours later, four reporters were released and another three were transferred to the premises of the Attorney General’s Office in Medellín to begin the judicial process. After being detained for 24 hours without their legal status being defined, they were released without charge, although they were fined 932,320 Colombian pesos (US \$255) each for violating the quarantine measures imposed in Medellín. This despite the fact that journalists fall within the exceptions to isolation according to the government decree.

394. This Office of the Special Rapporteur also learned of the acts of harassment suffered by the journalist Natalia Archila on May 14, who was on the radio station *Latina Comunicaciones* about to start her program when former councilor Juan Carlos Sánchez entered the media office and sexually assaulted her. According to the journalist, when he noticed that she was alone, the former councilor took her by force and touched her abusively with his genitals.⁵⁶⁷ After what happened, Natalia Archila filed the complaint with the Attorney General’s Office, backed by the Foundation for Press Freedom (FLIP). Former councilman Sánchez had already been denounced for sexual harassment in February 2019 by journalist Diana Cantillo.

395. In relation to the case of Natalia Archila, the Office of the Special Rapporteur has given special follow-up to the impact of gender-based violence on women journalists in Colombia. A study prepared by the Democracy Observatory of the Department of Political Science of the Universidad de los Andes and the initiative ‘It’s not time to shut up’ published in November 2020 revealed that at least six out of ten Colombian journalists have suffered gender-based violence.⁵⁶⁸ The report identified that only a small percentage of the participants considered that they have mechanisms or instances to complain and to receive support in their workspaces. In this sense, they found that reporting mechanisms are not usually specific protocols to handle gender-based violence, which can contribute to re-victimization or impunity. Likewise, it emerged from the

⁵⁶⁴ El Espectador. November 30, 2020. [La peligrosa irresponsabilidad de Néstor Humberto Martínez](#); La FM. November 30, 2020. [Néstor Humberto Martínez estigmatiza e intimida a la prensa: Flip](#); Blu Radio. November 30, 2020. [La FLIP denuncia que exfiscal Martínez utiliza estrategias para intimidar a periodistas](#); Colectivo de Abogados José Alvear Restrepo. December 1, 2020. [Rechazamos señalamientos del ex Fiscal Néstor Humberto Martínez contra los periodistas](#).

⁵⁶⁵ FLIP. 18 de junio de 2020. [Reporteros gráficos que fueron detenidos en Medellín denuncian abusos policiales y violación al debido proceso](#); Fundamedios. 17 de junio de 2020. [Policía colombiana detiene a reporteros gráficos que cubrían protesta en Medellín](#); El Tiempo. 15 de junio de 2020. [Marcha de estudiantes en Medellín terminó en disturbios con la Policía](#); RT Actualidad. 15 de junio de 2020. [Protestas contra las medidas del gobierno colombiano durante la pandemia terminan con detenciones y represión en Medellín](#); Cuenta de Twitter [AquinoTicias \(@AquinoTicias1\)](#). 15 de junio de 2020.

⁵⁶⁶ Committee to Protect Journalists (CPJ). July 7, 2020. [Three photographers arrested while covering protests in Medellín, Colombia](#).

⁵⁶⁷ FLIP. May 18, 2020. [Natalia Archila, periodista de San Gil, denunció al exconcejal Juan Carlos Sánchez por violencia sexual](#); Blu Radio. May 16, 2020. [Denuncian a político de San Gil por presunta agresión sexual a joven periodista](#); El Espectador. May 18, 2020. [Flip pide investigar a exconcejal de San Gil por presunta agresión sexual a periodista](#); Fundamedios. May 22, 2020. [Periodista radial denuncia a exconcejal por agresión sexual](#).

⁵⁶⁸ Observatorio de la Democracia de la Universidad de los Andes. [Violencia de género en contra de las mujeres periodistas en Colombia](#). November 2020.

report that numerous women journalists had to abandon topics, sources, or workspaces due to situations of gender-based violence. As the IACHR addressed in the report “Women journalists and freedom of expression,” gender-based violence against women journalists implies violations of the right to freedom of expression and the right to receive information from society as a whole. In addition to the risks of threats and violence faced by all human rights defenders and journalists in the region, women belonging to these groups are exposed to additional or specific risks.⁵⁶⁹ In the report, the IACHR called on the States to adopt positive measures in order to combat any discriminatory practice and, in particular, to strengthen and apply legal, public policy, and other measures that promote and protect women's leadership in society and their participation in public debate under conditions of equality, including in the exercise of journalism and management of the media. Among other recommendations, it also urged States to integrate a gender perspective into all initiatives aimed at creating and maintaining a safe and conducive environment for free and independent journalism.⁵⁷⁰

F. Subsequent liabilities

396. According to public information, on June 2, Vice President Marta Lucía Ramírez filed a criminal complaint for libel against Jeremy McDermott, a British journalist who serves as co-director and legal representative of *InSight Crime* in Medellín.⁵⁷¹ On July 24, the Attorney General's Office notified the journalist of the lawsuit, which accused him of damaging “the moral integrity, good name, dignity, and honor” of the vice president as a result of an investigative article alleging the existence of a link between the vice-president's husband and the drug trafficker “Memo Fantasma”.⁵⁷²

397. Given the publicity of the complaint, the Office of the Special Rapporteur for Freedom of Expression pointed out that the use of criminal law by public officials to defend honor is incompatible with inter-American standards on freedom of expression.⁵⁷³ Finally, on July 28, a day after the news was known, Vice President Ramírez announced that she would withdraw the criminal complaint against the journalist for “considering the case over”.⁵⁷⁴

398. On September 16, journalist Gonzalo Guillén was notified of a three-day arrest warrant and a large fine for contempt. In 2019, the journalist had published a tweet in which he linked a citizen to drug trafficking, later rectifying himself on his social networks based on *amparo* remedy order. However, according to Municipal Civil Judge 57, the lack of rectification in the national media implies contempt. The Office of the Special Rapporteur expressed concern about the judicial decision, and recalled that the application of criminal law and the prison sentence to punish the exercise of freedom of expression in cases of speech on matters of public interest is incompatible with inter-American standards. In addition, the Office warned that the right to rectification or response must be interpreted in harmony with freedom of expression to avoid becoming an indirect censorship mechanism, and must comply with the requirements of legality, necessity, and proportionality.⁵⁷⁵

399. On September 9, journalists Catalina Ruiz-Navarro and Matilde Londoño, who had revealed in the magazine *Volcánicas* the anonymous complaints of eight women who say they have suffered sexual harassment and abuse by the filmmaker Ciro Guerra, were summoned by the Attorney General's Office after a

⁵⁶⁹ IACHR. [Women Journalists and Freedom of Expression](#). OEA/Ser. L/V/II. CIDH/RELE/INF.20/18. October 31, 2018. Par. 3.

⁵⁷⁰ IACHR. [Women Journalists and Freedom of Expression](#). OEA/Ser. L/V/II. CIDH/RELE/INF.20/18. October 31, 2018. Par. 166 - 167.

⁵⁷¹ El Espectador. July 28, 2020. [Vicepresidenta presentó denuncia contra periodista que reveló supuestos vínculos con “Memo Fantasma”](#); Ansa Latina. July 29, 2020. [Vicepresidenta denuncia a periodista británico](#); Committee to Protect Journalists (CPJ). July 28, 2020. [Colombian vice president files criminal defamation suit against journalist](#); IPYS. July 31, 2020. [Colombia: Vicepresidenta presentó denuncia contra periodista que reveló supuestos vínculos con “Memo Fantasma”](#).

⁵⁷² InSight Crime. March 29, 2020. [Tracking the Ghost: Follow the Money](#).

⁵⁷³ Twitter Account of Edison Lanza (@EdisonLanza). [July 29, 2020](#).

⁵⁷⁴ Twitter account of Vice President of Colombia Marta Lucía Ramírez (@mluciaramirez). [July 29, 2020](#); Deutsche Welle (DW). July 30, 2020. [Vicepresidenta de Colombia retira denuncia por injuria contra periodista](#); Semana. July 29, 2020. [Vicepresidenta retira denuncia contra el periodista que habló de Memo Fantasma](#)

⁵⁷⁵ El Espectador. September 17, 2020. [Ordenan arresto del periodista Gonzalo Guillen por desacato](#); Semana. September 17, 2020. [Orden de arresto al periodista Gonzalo Guillén por desacato](#); La FM. September 17, 2020. [Orden de arresto contra el periodista Gonzalo Guillén](#); RCN Radio. September 17, 2020. [FLIP rechaza orden de arresto contra el periodista Gonzalo Guillén](#).

claimed was filed against them for slander.⁵⁷⁶ According to available information, the summons came after a conciliation procedure between the journalists and the filmmaker's lawyers failed. The communicators, who decided not to attend the proceedings, stressed that they did not want to put themselves "in a situation that could expose sources because, for us, the most important thing is the right to protect our sources".⁵⁷⁷ On September 21, the 31st Criminal Court of the Bogotá Circuit convicted Gustavo Rugeles to two days of arrest and a fine of two minimum wages for breaching an *amparo* remedy that required him to eliminate and rectify a publication published on Facebook, Twitter, and on the portal *El Expediente*, which he directs.⁵⁷⁸ In June 2019, the media had published a right to petition that it had sent to the then director of the National Protection Unit (UNP), Pablo Elías González, who subsequently filed an *amparo* remedy for understanding that the publication contained "serious remarks disguised as questions" and violated his human dignity, privacy, honor, and good name.

400. On the other hand, this Office observed with special concern the Attorney General's Office investigation against journalist Diana Marcela Díaz, who in 2018 had denounced a case of censorship in the Public Media System (RTCv).⁵⁷⁹ According to available information, the case dates back to December 6, 2018, when the journalist recorded a conversation in which the then manager of RTCv, Juan Pablo Bieri, decided to take the program "Los Puros Criollos" off the air. On January 23, 2019, the alliance of journalists *La Liga Contra el Silencio* published an article titled "Juan Pablo Bieri, a pure and creole censor" in which it recounted what happened at that meeting, accompanied by the audio that Diana Díaz had recorded, which culminated in the resignation of Juan Pablo Bieri on January 25, 2019. On March 15, 2019, Juan Pablo Bieri filed a complaint against Diana Díaz before the Attorney General's Office for the crime of using a matter under secrecy or confidentiality (Art. 419 of the Penal Code). In his presentation, he accused the journalist of having illegally recorded and disclosed the conversations in the framework of that meeting.

401. On October 5, 2020, Diana Díaz was questioned by the Prosecutor's Office about the meeting in question and how the audio had been disclosed and, finally, on October 14, she was notified of the summons to the indictment hearing, scheduled for November 18. However, three weeks later a Legal Technical Committee was formed that decided to withdraw the request for a hearing in order to continue collecting material evidence, to make a decision on the merits.⁵⁸⁰

402. On the other hand, within the framework of said case, on October 8, 2020, the Prosecutor's Office requested FLIP to inform a date for conducting a judicial inspection at its facilities, as well as to access documents that control the entry and departure of visitors in a certain period, in order to establish the entry of Diana Díaz. Likewise, in the following days, it would have summoned three members of the FLIP team to attend a face-to-face interview in the criminal proceedings against the journalist.⁵⁸¹

403. On the other hand, in November, journalist Adriana Villegas was summoned by the Ayacucho Army Battalion, located in the city of Manizales, to testify in a disciplinary process, after she denounced misogynistic military chants.⁵⁸² A month earlier, on October 18, the journalist had published a column in the newspaper *La Patria*, titled "It's not a joke, it's violence." There, she said she had the opportunity to listen to the soldiers' songs while they carried out their training and that they spoke of "hanging their own mothers or gouging out the eyes of their respective girlfriends." According to the available information, in the notification she was not informed about what facts she was summoned to testify, nor was it clarified what disciplinary

⁵⁷⁶ El Espectador. September 14, 2020. [Citaron a interrogatorio a las periodistas que revelaron supuestos acosos de Ciro Guerra](#); Blu Radio. September 15, 2020. [Citan a interrogatorio a periodistas que denunciaron presuntos acosos de Ciro Guerra](#); RCN. September 14, 2020. [Citan a interrogatorio a las periodistas que publicaron denuncias de acoso sexual contra Ciro Guerra](#).

⁵⁷⁷ El Espectador. September 14, 2020. [Citaron a interrogatorio a las periodistas que revelaron supuestos acosos de Ciro Guerra](#).

⁵⁷⁸ FLIP. October 7, 2020. [FLIP rechaza orden de arresto y multa contra Gustavo Rugeles](#); Information sent to the Office of the Special Rapporteur for Freedom of Expression. October 6, 2020.

⁵⁷⁹ El Tiempo. October 19, 2020. [Flip, preocupada por imputación en caso de audio que advertía censura](#); France 24. October 20, 2020. [Colombia: alertan intimidaciones de la Fiscalía tras caso de censura en medios públicos](#); Committee to Protect Journalists (CPJ). October 26, 2020. [Colombia to file criminal charges against journalist Diana Díaz for revealing censorship at public media network](#).

⁵⁸⁰ Semana. November 13, 2020. [Fiscalía retira imputación contra periodista que denunció caso Bieri](#); El Espectador. November 13, 2020. [Fiscalía no imputará, por ahora, a la periodista que reveló censura de Bieri en RTVC](#).

⁵⁸¹ El Espectador. October 19, 2020. [Fiscalía ordenó inspección a Fundación para la Libertad de Prensa](#).

⁵⁸² El Espectador. November 12, 2020. [Ejército cita a declarar a Adriana Villegas, periodista que denunció cantos misóginos de soldados](#); Infobae. November 12, 2020. [La periodista que denunció cantos misóginos de soldados fue citada por el Ejército a declarar](#); Semana. November 12, 2020. [Ejército citó a declarar a periodista que denunció polémicos cantos militares](#).

process she was dealing with and who it involved. Subsequently, the Army issued a press release in which they assured that the communicator was not being investigated and clarified that it was a disciplinary proceeding in which she was a witness. In an interview with the newspaper *El Tiempo*, Adriana Villegas noted: "I observe that every day in the media colleagues make complaints that involve institutions and subsequent actions are focused on verifying the information and facts and not on summoning journalists. This may be legal, but it doesn't mean it's not intimidating".⁵⁸³

404. Likewise, this Office was informed that on November 20, the Sixth Criminal Court of the Bogotá Specialized Circuit ordered *Las Igualadas*, journalist Fidel Cano, and *El Espectador* to rectify an opinion issued on October 28 in a video of the channel *Las Igualadas*, in which several women who filed a criminally complaint against José Francisco Jacomo Ángel, senior pastor of the El Shaddai religious congregation, recounted their experiences of gender-based violence.⁵⁸⁴ As a result of the publication of the video, the pastor initiated an *amparo* remedy for considering his rights to privacy, honor, good name, and the presumption of innocence violated. On November 10, before the *amparo* was ruled, the journalists published a second video in which they specified that there is no firm conviction against the pastor, whom they described as "allegedly guilty of sexual violence" and "alleged perpetrator." Despite this, according to FLIP, "the judge ignored that the journalists made a clear expression of opinions and distinguished them from information in a transparent manner." They also warned that the case constitutes judicial harassment against the press on matters of public interest and seeks to frighten journalists who make visible human rights violations and gender-based violence, increasing the risk of self-censorship.⁵⁸⁵

G. Monitoring and profiling of journalists, human rights defenders, and activists

405. At the beginning of the year, the Office became aware of the surveillance and computer profiling actions of journalists, activists, trade unionists, social leaders, and opposition politicians, carried out by different units of the National Army between February and December 2019. As the Office of the Rapporteur learned, the surveillance tasks included the illegal interception of communications, and monitoring through "StingRay" -mobile tactical teams that intercept cell phone calls- and the "Invisible Man" platform, which would allow access to private computers, intercept calls and conversations on instant messaging services, and obtain information without being detected.⁵⁸⁶

406. According to public information, "profiles" were created through the collection of public and private information regarding at least 130 people -whose identity was later disclosed- without their prior authorization, according to a journalistic investigation carried out *Revista Semana*.⁵⁸⁷ Among them would be at least 43 Colombian journalists and foreign press correspondents, politicians from opposition parties, people linked to the negotiations of the peace accords, human rights defenders, trade unionists, former officials of the Presidency of the Republic, judges, and people who have carried out investigations into extrajudicial executions (the so-called "false positives"). The information collected would include phone number, home and work addresses, emails, friends, family, colleagues, traffic violations, and polling places, among other data. In addition, in the case of journalists, they were carried out with the objective of accessing their sources of information; for example, georeferencing had been carried out on at least one photojournalist who had made a photographic report on the ELN guerrilla in Chocó.

407. On December 18, 2019, a commission from the Investigation Chamber of the Supreme Court of Justice and judicial police from the Special Investigations Directorate of the Attorney General's Office raided the Cyber Intelligence Battalion in Facatativá, in search of evidence regarding the complaint of illegal surveillance. The officers who were at the facilities allegedly denied carrying out illegal activities and having computer software or tools, but several pieces of equipment were seized, including ten hard drives, five cell phones, eight sim cards, 12 USB sticks, a micro-SD memory, 316 DVDs and compact discs -including eight

⁵⁸³ El Tiempo. November 13, 2020. ['Adriana Villegas no está siendo investigada': Ejército sobre citación.](#)

⁵⁸⁴ El Espectador. November 25, 2020. [Juez ordena a "Las Igualadas" rectificar opiniones sobre el pastor Francisco Jamocó;](#) Infobae. November 11, 2020. [Pastor impuso tutela a "Las Igualadas" por video donde lo tildan de acosador sexual.](#)

⁵⁸⁵ FLIP. November 25, 2020. [Decisión contra Las Igualadas incrementa la autocensura frente denuncias de violencia de género.](#)

⁵⁸⁶ Committee to Protect Journalists (CPJ). January 13, 2020. [Colombian magazine Semana alleges military spied on its journalists;](#) France 24. January 13, 2020. [Vuelven las "chuzadas" a Colombia: el Ejército espía magistrados, congresistas y periodistas según investigación;](#) The New York Times. January 17, 2020. [El espionaje volvió a la política colombiana.](#)

⁵⁸⁷ El Diario.es. May 4, 2020. [Revelan un entramado de espionaje a periodistas, políticos y activistas por parte del Ejército colombiano.](#)

found inside a gray safe-, 189 pages of documents and five Arduinos (boards that can be programmed for Windows, Mac, or free software). Said raid was ordered by the Supreme Court of Justice, some of whose judges were as well victims of interceptions and monitoring. Since January 16, 2020, the Delegate to the Supreme Court of Justice of the Attorney General's Office opened an investigation for the crimes of illegal violation of communications and illegal use of transmitting or receiving equipment, among other crimes.⁵⁸⁸

408. In relation to the raid, according to information revealed by the press, the Special Investigations Directorate of the Attorney General's Office sent the Supreme Court judge Cristina Lombana Lombana a report that gathers some conclusions on the raid. For example, that from the evidence analyzed it can be inferred that the Cyber Intelligence Battalion (BACIB) of the Colombian National Army, in Facatativá (Cundinamarca) "has the ability to access email accounts. Likewise, the technical report indicates that evidence was found of three technical tools that the Army has supposedly used to intervene in communications: Perseus, Orisis, and Cerberus.

409. The Colombian Attorney General's Office announced on January 13 that they would initiate investigations to establish whether such illegal activities were indeed carried out and whether the former Army Commander, General Nicasio Martínez, who resigned from his post on December 27, 2019, was involved or knew the facts.⁵⁸⁹ On the other hand, on May 1, Defense Minister Carlos Holmes Trujillo announced that they were removed from active duty and that a brigadier general requested their voluntary retirement for alleged "irregular use of military intelligence capabilities".⁵⁹⁰ On May 2, President Iván Duque stated that he had asked Trujillo "to carry out a rigorous investigation of the intelligence work of the last 10 years," and that it would already be producing results.⁵⁹¹ In this context, on June 15, a group of UN and IACHR Rapporteurs sent the State a letter expressing their deep concern over the alleged surveillance and profiling activities, also requesting information and comments on certain points.⁵⁹²

410. However, the Office of the Special Rapporteur notes with concern that the judicial investigations in this regard have not progressed significantly. Civil society organizations have warned about the lack of speed in the process, as well as the limitations in access to information regarding the progress of the investigations by the Attorney General's Office. According to public information, in August the Office of the Attorney General of the Nation stated, in response to a right to petition, that contrary to what was published in *Revista Semana* "there were not 130 targets the objects of illegal actions of monitoring, follow-ups, interceptions, profiling, and special tasks by the National Army, but a number of people that does not exceed 20", which would not match with the conclusions of the expert opinion ordered by the Supreme Court and carried out by the Attorney General's Office.⁵⁹³

411. On the other hand, the Office of the Special Rapporteur noted with concern the information published on August 22 by the journalist Juan David Ortiz on his social networks, from which it appears that the Mayor of Medellín had signed a contract with the company Selecta Consulting Group for the "analysis of the behavior in networks of profiles that are defined in such a way that the social and political impact is measured", by which journalists and political opponents would be monitored.⁵⁹⁴ Among the people monitored were journalists José Guarnizo, Pascual Gaviria, Clara Giraldo, and Ana Cristina Restrepo, as well as the media outlet *Juan Paz*. Telemedellín, the contracting entity on behalf of the administration, made it clear that this contracting was done by express order of the Ministry of Communications and that the type of contracting

⁵⁸⁸ El Espectador. May 13, 2020. [El reporte de lo que se halló en el Batallón de Ciberinteligencia de Facatativá.](#)

⁵⁸⁹ El Espectador. January 13, 2020. [Fiscalía le pone la lupa a denuncias de "chuzadas" desde inteligencia del Ejército](#); Infobae. January 13, 2020. [La Fiscalía de Colombia abrió una investigación contra el ex jefe del Ejército por espionaje ilegal](#); France 24. January 14, 2020. [Comienzan las investigaciones en la Fiscalía tras el regreso de las "chuzadas" en Colombia](#); El País. January 14, 2020. [La Fiscalía de Colombia investiga al exjefe del Ejército por espionaje.](#)

⁵⁹⁰ El Tiempo. May 1, 2020. [El Ministerio de Defensa retira a 11 oficiales del Ejército.](#)

⁵⁹¹ Infobae. May 2, 2020. [Presidente colombiano rechaza interceptaciones ilegales.](#)

⁵⁹² Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; of the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the situation of human rights defenders; of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-repetition; and the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights of the Organization of American States. [Communication sent to Colombia. COL 5/20](#). June 15, 2020.

⁵⁹³ *Semana*. September 8, 2020. [Carpetas Secretas, camino a la impunidad en la justicia.](#)

⁵⁹⁴ Twitter account of Juan David Ortiz F. (@JuanOrtizfr). [August 22, 2020](#); FLIP. August 25, 2020. [Denuncias de seguimiento a periodistas desde la Alcaldía de Medellín.](#)

was requested to be direct. For his part, the Secretary of Communications Juan José Aux indicated that there would be no intention to carry out specific follow-ups but that it was a strategy to “measure public opinion” and make decisions based on the opinion of citizens.⁵⁹⁵

412. On August 24, the Medellín Public Management Control Observatory also made a public complaint on the monitoring and follow-up that Daniel Quintero's administration in Medellín would be doing on those profiles “that generate negative comments that affect the image of the local leader and his team”.⁵⁹⁶ As the Observatory learned, more than \$138 billion pesos would have been allocated between the two signed contracts.

H. Progress

413. On May 7, the Plenary Chamber of the Constitutional Court ruled in favor of a group of journalists who had filed an *amparo* remedy after a court prohibited them from entering a hearing for the indictment of the then director of the La Modelo Prison, César Augusto Ceballos, for alleged acts of corruption. The Court understood that their freedom of expression, information, and the press had indeed been violated and provided guidelines for future cases.⁵⁹⁷

414. In its ruling, the high court noted that the general rule is that journalists must be allowed access to all public court hearings. In order to be able to close it to the media, the judges must first analyze whether there is any “reservation cause”. The reservation must be founded on a law and must pursue an imperative, suitable, necessary, and proportional objective. Second, the Court pointed out that the restriction must be justified on the basis of a certain and current risk of damage. Third, the degree of impact on citizens' information that this limitation entails must also be considered. Finally, if it is decided to restrict the presence of the press at the hearings, the Court specified that the judges must propose alternative measures so that the information can be accessed.

415. The previous decision is added to the one issued by the Supreme Court of Justice on June 16, in which it ordered a court to deliver recordings of a hearing to a journalist, and reiterated that journalists have the right to attend hearings in judicial proceedings, and to request a copy of these proceedings to be able to fully exercise their work.⁵⁹⁸ The case originated from an *amparo* remedy filed by Daniel Geovany Neira, who identified himself as a digital journalist, teacher, and lawyer in Rovira (Tolima) and who was denied a copy of a hearing held in 2019 in which the Prosecutor's Office indicted the then mayor of that municipality for a case of misuse of public resources. The Criminal Chamber of the high court pointed out that the media “exert a counterweight that should prevent arbitrariness and injustice from both the Judge and those involved in their behavior within the criminal process.”

416. The Office of the Special Rapporteur received with great satisfaction the decision of the Supreme Court of Justice that ordered authorities to adopt various actions to guarantee the exercise of the right to peaceful protest.⁵⁹⁹ In a ruling considered “historic” and “unprecedented”, the Civil Cassation Chamber of the Supreme Court of Justice accepted an *amparo* remedy presented by several citizens in which they affirmed that the State, from 2005 to the present, “has displayed a constant, repetitive, and persistent conduct to undermine, discourage and weaken their right to express themselves without fear” in protests or peaceful demonstrations, for which they demanded policy changes from the Government and the National Police. Among other measures, the majority ruling ordered the National Police, the Prosecutor's Office and the

⁵⁹⁵ Twitter account of Juan José Aux (@JuanJoseAuxT). [August 23, 2020](#).

⁵⁹⁶ W Radio. August 24, 2020. [Denuncia Veeduría: Alcaldía de Medellín pagó monitoreo a ciudadanos y periodistas en redes](#); W Radio. August 23, 2020. [Estas son las personas a las que les habrían hecho monitoreos digitales en Medellín](#); Blu Radio. August 23, 2020. [La relación entre Daniel Quintero y la empresa de monitoreo de redes sociales](#).

⁵⁹⁷ República de Colombia, Corte Constitucional. May 7, 2020. [Corte Constitucional ordena a los jueces no impedir el acceso de la prensa a las audiencias preliminares](#); El Tiempo. May 7, 2020. [Corte aclara cuándo se puede limitar el acceso de prensa a audiencias](#); RCN Radio. May 7, 2020. [Jueces no pueden restringir acceso a periodistas en audiencias públicas](#); El Espectador. May 7, 2020. [Restringir acceso de periodistas a audiencias debe cumplir requisitos: Corte Constitucional](#).

⁵⁹⁸ República de Colombia, Corte Suprema de Justicia, Sala de Casación Penal. June 16, 2020. [STP4408-2020](#); El Espectador. July 21, 2020. [Corte Suprema reitera que periodistas sí pueden pedir registro de audiencias públicas](#); El Tiempo. July 21, 2020. [Corte ordena a juzgado entregar grabación de audiencia a periodista](#).

⁵⁹⁹ República de Colombia, Corte Suprema de Justicia, Sala de Casación Penal. June 16, 2020. [STP4408-2020](#); El Espectador. July 21, 2020. [Corte Suprema reitera que periodistas sí pueden pedir registro de audiencias públicas](#); El Tiempo. July 21, 2020. [Corte ordena a juzgado entregar grabación de audiencia a periodista](#).

Attorney General's Office to issue a protocol of preventive, concomitant, and subsequent actions compatible with human rights standards, which will be called "Statute for the reaction, use, and verification of the legitimate use of force by the State and protection of the right to peaceful citizen protest". It also ordered the suspension of the 12-gauge shotguns used by the Mobile Anti-riot Squads of the National Police (ESMAD); the creation, by the Government, of a working group to restructure the guidelines related to the use of force in the face of peaceful demonstrations, so that it listens and addresses the proposals of any person interested in the subject; and the neutrality of the national executive branch in the context of non-violent demonstrations and the refraining from stigmatizing those who protest.

417. Despite this progress, the Office of the Rapporteur took note that Defense Minister Carlos Holmes Trujillo publicly stated that in Colombia "the Public Force has protocols adjusted to international standards on human rights", and that ESMAD "does not institutionally incur in excesses", but rather that their action occurs "exclusively in the face of violent and irrational actions that constitute crimes, violate people's rights and are not peaceful demonstrations". He also announced that he will ask the Constitutional Court to review the Supreme Court ruling.⁶⁰⁰

418. Likewise, on September 24, the Administrative Court of Cundinamarca issued an *amparo* judgment in which it ordered the President of Colombia, the Minister of Defense, and the Director of the National Police to prepare and deliver, within a period of ten working days, a protocol that stipulates urgent measures to guarantee the right of citizens to publicly manifest.⁶⁰¹ In this framework, on October 20, the Government issued Resolution 1139 of 2020 through which it established a protocol for social protest with immediate effect. According to the information received, this protocol -which was called "express"⁶⁰²- would have been issued to deal with the situation urgently, although the Government was reportedly working on a more complete and structural protocol, which complies in detail with what is ordered by the Supreme Court of Justice.⁶⁰³ Among other aspects, the document imposes responsibilities on the governors and mayors in the face of the protests, provides training in human rights for members of the Police, and reiterates the duties that the participants of a demonstration have as citizens, by virtue of article 95 of the Political Constitution.⁶⁰⁴

I. Social protest

419. The Office of the Special Rapporteur specially followed the series of massive protests in different parts of Colombia as a result of the death of lawyer Javier Ordoñez on September 9, as a result of the beatings and electric shocks with Taser guns by agents of the Metropolitan Police of Bogota.⁶⁰⁵ Ordoñez was reportedly detained for allegedly failing to comply with the isolation rules established by the COVID-19 pandemic. According to publicly known information, between September 9 and 10, demonstrations took place in Medellín, Barranquilla, Cali, Cúcuta, among other cities, in rejection of police violence. According to public sources, reportedly at least 13 people died during the protests and, as of September 11, more than 209 civilians were injured, and 194 police officers were injured.⁶⁰⁶ Among the civilians injured on September 9, 19 of them were reportedly injured by firearms. According to audiovisual records, police officers allegedly fired shots in the direction of the protesters in different situations. On the other hand, according to the information received by the IACHR, as of September 11, 75 people were detained for events associated with the development of the demonstrations. Within the framework of these procedures, according to public sources, there are various complaints about police actions related to situations of mistreatment, beatings, torture, and

⁶⁰⁰ El País. September 23, 2020. [El Gobierno de Colombia evita disculparse por la represión de las protestas de 2019](#); El Tiempo. September 23, 2020. [Gobierno pedirá que Corte Constitucional revise tutela sobre protestas](#).

⁶⁰¹ Infobae. October 7, 2020. [Ordenan al Gobierno y a la Policía crear un protocolo 'express' para las protestas del 21 de octubre](#); Semana. October 7, 2020. [Tribunal pide protocolo 'expres' para garantizar protestas del 21 de octubre](#).

⁶⁰² El Espectador. October 20, 2020. [Así es el protocolo exprés para protestas expedido por el Gobierno Nacional](#); RCN Radio. October 20, 2020. [Lo que debe saber del protocolo exprés para la protesta social expedido por el Gobierno](#).

⁶⁰³ O70 / Universidad de los Andes. October 21, 2020. [ABC del 'protocolo exprés' para la protesta social](#).

⁶⁰⁴ El Espectador. October 20, 2020. [Así es el protocolo exprés para protestas expedido por el Gobierno Nacional](#); El País. October 20, 2020. [Gobierno expide protocolo para marchas y protestas en el país](#).

⁶⁰⁵ Amnesty International Colombia. September 11, 2020. [Amnistía Internacional condena actos de tortura y el uso excesivo de la fuerza por parte de la policía](#).

⁶⁰⁶ France 24. September 10, 2020. [Noche de disturbios en Colombia contra la brutalidad policial deja al menos ocho muertos](#); BBC. September 10, 2020. [Javier Ordoñez: 10 muertos y decenas de heridos en Colombia durante las protestas por la violencia policial](#); Infobae. September 11, 2020. [Protestas en Colombia: ya se han contabilizado 11 muertes durante los disturbios registrados en distintos puntos del país](#).

a case of sexual abuse. Likewise, within the framework of these demonstrations, at least six journalists were reportedly attacked and insulted in different locations by members of the Police.⁶⁰⁷ According to the information received, the attacked and intimidated press workers were Julián Gómez, a reporter for *ABC Noticiero Virtual*, Juan Pablo Pino from *Publimetro*, Óscar Pérez and José Vargas from *El Espectador*, Javier Jiménez Rojas, a journalist from *Colombia Informa*, and the photographer Juan Camilo Rubiano, who was working freelance.

420. The IACHR expressed its emphatic condemnation of the acts of police brutality and abuse that occurred on September 8, 9, and 10, as well as its concern over the alleged use of firearms by National Police agents in the context of the demonstrations that took place in several cities in Colombia. In this regard, it urged the State to investigate and clarify these facts, as well as to prosecute and punish those responsible. Likewise, it called on the authorities to order the immediate halt of the disproportionate use of force by the State security forces; and stressed that the actions of the police in maintaining public order must be strictly based on international human rights standards that govern the use of force under the principles of exceptionality, proportionality, and absolute necessity.⁶⁰⁸

421. According to public information, on September 21 a new day of demonstrations was held in different parts of the country in rejection of various acts of violence that occurred in the country, including the death of Javier Ordóñez and the violence that occurred in subsequent protests, massacres that occurred in Buenos Aires and El Charco, municipalities of Cauca and Nariño, which left 11 dead, and the death of social leaders. In the context of these social mobilizations, the independent photographer Andrés Torres was attacked by members of the Mobile Anti-Riot Squads of the National Police (ESMAD) while covering the events in Bogotá. According to the reporter, when he was taking photographs of him, the officers shot him twice, totally damaging his camera and also leaving a bruise on one of his legs. The journalists Fabián Yáñez and César Posada from the *Revista Semana* were also attacked by the security forces while they were carrying out their work.⁶⁰⁹

J. Access to information on serious human rights violations

422. On September 30, 2020, the Commission for the Clarification of Truth, Coexistence, and Non-Repetition of Colombia (CEV) indicated, when rendering accounts for the first semester of the year, that they would be encountering barriers to access the information in custody of certain state entities.⁶¹⁰ In particular, it stated that, in repeated circumstances, certain State institutions were delaying the responses and finally refusing to deliver the requested information based on the reserve or other justifications contrary to domestic legislation. Additionally, the CEV indicated that in some cases it would be receiving responses to its requests for information whose content is not related to the data requested. According to the information available, this contradicts basic principles of internal legislation on transparency, in addition to causing delays in the work of the Commission, considering above all that the passage of time waiting for important information is especially sensitive in an entity with a temporary mandate. Likewise, the Truth Commission would have been informed of the alleged destruction, by orders and directives and/or as an institutionalized practice, of files that account for human rights violations, in breach of the provisions of the Archives Document Management Protocol on this matter.

423. In October, the IACHR sent a letter to the State of Colombia, requesting information on the aforementioned obstacles, and recalling the important commitment it assumed with the endorsement of the Final Agreement and the implementation of a new transitional justice system, of which the CEV is a fundamental part.

424. In the framework of the 178th Period of Sessions, the IACHR also received information about alleged messages of discredit and public accusations towards the Truth Commission and its members, attacks and accusations that deteriorate the legitimacy of its work and, eventually, the findings and recommendations

⁶⁰⁷ FLIP. September 10, 2020. [Graves violaciones a la libertad de prensa en jornada de protestas en Bogotá por el asesinato del ciudadano Javier Ordoñez](#); RCN Radio. September 14, 2020. [Radican tutela para garantizar derecho a la protesta ante ola de violencia en Bogotá](#).

⁶⁰⁸ IACHR. September 16, 2020. Press Release 219/2020. [IACHR Condemns Excessive Use of Police Force, Expresses Concern about Violence During Public Demonstrations in Colombia](#) <http://www.oas.org/es/cidh/prensa/comunicados/2020/219.asp>.

⁶⁰⁹ FLIP. September 23, 2020. [Tres violaciones más a la libertad de prensa durante las manifestaciones del 21 de septiembre](#).

⁶¹⁰ Comisión de la Verdad. September 30, 2020. [Las barreras para el acceso a la información que enfrenta la Comisión de la Verdad](#).

that it will include in its final report. In particular, they highlighted statements by a senator and members of the president's party who affirmed that the members of the Truth Commission “would have ideological links with paramilitary groups and questioned its legitimacy as an institution, as well as the impartiality and veracity of its findings and statements”.⁶¹¹

K. Internet and freedom of expression

425. On July 24, the Superior Court of Cali ordered President Iván Duque to remove from his Twitter account @IvanDuque, within a period of no more than 48 hours, a message alluding to the commemoration of the Virgin of Chiquinquirá. Likewise, it asked him to refrain from making any other manifestation that would give precedence to his professed religion. The *amparo* remedy had been filed by a citizen who understood that the rights to secularism of the State, freedom of worship, and the principle of separation between the State and religion had been violated. According to the Court, despite not being the official account of the Presidency, official information is broadcasted through that channel and the president's message corresponded to an invocation of Catholicism that could be offensive to those who do not feel identified and discriminatory to the other beliefs, cults, and religious minorities.⁶¹² However, on August 19, the Supreme Court reversed the ruling and argued that there were not enough elements to determine that Duque incurred any constitutional violation, although it reminded him that he must preserve religious neutrality as head of state in the use of his personal social networks.⁶¹³

426. Regarding internet access, this Office learned that on March 23, in the framework of the emergency due to the Covid-19 pandemic, the National Government issued decree 464 of 2020, declaring telecommunications as essential public services.⁶¹⁴ By virtue of this rule, while the state of emergency lasts, its provision may not be suspended during the state of emergency, among other measures that benefit users. Some non-governmental organizations questioned the decree for allegedly having elements that would be unconstitutional (such as the discrimination of users of prepaid plans versus those of postpaid plans, or the suspension of net neutrality).⁶¹⁵ However, on May 27, the Plenary Chamber of the Constitutional Court supported the constitutionality of Decree 464 of 2020.⁶¹⁶

427. According to the Ministry of Information and Communication Technologies, Colombia currently has 24.3 million internet connections (between fixed and mobile 4G) with a speed greater than 10 Mbps, compared to 23.8 million who are in the more remote areas and cannot access the benefits of ICTs.⁶¹⁷ However, the figures provided by the International Telecommunications Union (ITU) place Colombia below the regional average in population with internet access.⁶¹⁸

428. As a result of the events observed in 2020, this Office calls on the Colombian State to specially note that:

⁶¹¹ Archive of the Office of the Special Rapporteur for Freedom of Expression. Information supplied by the Comisión para el Esclarecimiento de la Verdad, la Convivencia y la No Repetición de Colombia (CEV) in request for a hearing for the 178th Period of Sessions; 178 Period of Sessions. [Audiencia 11: Comisión de la Verdad, la Convivencia y la No Repetición de Colombia](#). December 8, 2020.

⁶¹² El Espectador. July 26, 2020. [Duque no puede exaltar en su cuenta de Twitter a la Virgen de Chiquinquirá](#); RCN Radio. July 26, 2020. [Duque no podrá mencionar a la virgen de Chiquinquirá en su cuenta de Twitter](#); Infobae. July 27, 2020. [Iván Duque escribió un tuit sobre la Virgen y la justicia le ordenó borrarlo](#).

⁶¹³ República de Colombia, Corte Suprema de Justicia. August 20, 2020. [Corte Suprema revoca tutela que ordenaba retiro de tweet a presidente de la República](#); Asuntos Legales. August 20, 2020. [Corte Suprema falla a favor del Presidente en tutela por mensaje de la virgen de Chiquinquirá](#); El Espectador. August 20, 2020. [Presidente Duque no tendrá que borrar su trino de la Virgen de Chiquinquirá: Corte Suprema](#); El Tiempo. August 20, 2020. [Corte tumba tutela que ordenaba a Duque eliminar trino sobre la Virgen](#).

⁶¹⁴ República de Colombia, Ministerio de Tecnologías de la Información y las Comunicaciones. [Decreto 464 de 2020](#), March 23, 2020; Dinero. March 23, 2020. [Así se garantizará el acceso a internet y telefonía móvil durante la cuarentena](#); El Espectador. March 23, 2020. [Operadores deben garantizar un mínimo de servicio prepago y pospago durante la emergencia](#).

⁶¹⁵ Fundación Karisma. April 14, 2020. [Intervención de la Corte, Decreto 464 de 2020 del Ministerio de las Telecomunicaciones](#); El Espectador. May 1, 2020. [Neutralidad en la red durante la pandemia, a debate](#).

⁶¹⁶ El Espectador. May 27, 2020. [Decreto sobre comunicaciones en la pandemia pasa el examen de la Corte Constitucional](#); El Tiempo. May 27, 2020. [Corte avala tres decretos del Gobierno sobre la pandemia](#); Observacom. June 18, 2020. [Corte Constitucional de Colombia avala decreto que declara servicio esencial a telecomunicaciones y la radiodifusión durante pandemia](#).

⁶¹⁷ Ministerio de Tecnologías de la Información y las Comunicaciones. April 28, 2020. [Colombia tiene 8.1 millones de nuevas líneas de Internet móvil 4G: MinTIC](#).

⁶¹⁸ International Telecommunications Union (ITU). [Measuring the Information Society Report](#). 2018.

429. **The murder of journalists constitutes the most extreme form of censorship, and impunity contributes to the self-censorship of the press.** States have a positive obligation to identify and punish the perpetrators of these crimes. As the IACHR and its Office of the Special Rapporteur have repeatedly stated, it is essential that the State fully, effectively, and impartially investigate the murders of journalists, clarify their motives, and judicially determine the relationship they may have to journalistic activity and freedom of expression. Authorities should not rule out the practice of journalism as a motive for the murder and/or assault before the investigation is completed. The omission of logical lines of investigation or the lack of diligence in the collection of evidence in this regard can have serious repercussions on the development of the processes in the stages of indictment or trial⁶¹⁹. Not having completely exhausted the logical lines of investigation entails, above all, that the intellectual authors cannot be identified⁶²⁰. Likewise, the Office of the Special Rapporteur recalls that the States must ensure that crimes against freedom of expression are subject to independent, prompt, and effective investigations and judicial procedures. As has been pointed out on other occasions, the lack of sanctions for those who are materially and intellectually responsible for the homicides, assaults, threats, and attacks related to the exercise of journalistic activity encourages the occurrence of new crimes and generates a notorious effect of self-censorship.

430. **Attacks and aggressions committed against journalists violate the right to freedom of expression both in its individual and collective dimensions and cannot be tolerated in a democratic society.** The Office of the Special Rapporteur recalls that Principle 9 of the Declaration of Principles on Freedom of Expression of the IACHR states that “[t]he murder, kidnapping, intimidation of, and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of States to prevent and investigate such occurrences, to punish their perpetrators, and to ensure that victims receive due compensation.”

431. **The use of criminal mechanisms to punish speech on matters of public interest, especially related to public officials, is incompatible with inter-American standards.** The Office of the Special Rapporteur recalls that “[t]he type of political debate to which the right to freedom of expression gives rise will inevitably generate certain critical or even offensive speeches for those who hold public office or are intimately linked to the formulation of public policy”.⁶²¹ Therefore, as stated in Principle 10 of the Declaration of Principles, “[t]he protection of a person’s reputation should only be guaranteed through civil sanctions in those cases in which the person offended is a public official”. Likewise, principle 11 establishes that “[p]ublic officials are subject to greater scrutiny by society. Laws that penalize offensive expressions directed at public officials, generally known as “desacato laws,” restrict freedom of expression and the right to information.” The IACHR has repeatedly argued that the application of criminal law to punish expressions referring to public officials is disproportionate when it comes to protected speech, such as information or expression on matters of public interest, and violates the right to freedom of expression.

432. **Illegal surveillance actions against journalists prevent the full enjoyment of the right to freedom of the press.** In the Joint Declaration on Surveillance Programs and their Impact on Freedom of Expression of June 2013, the Rapporteurs of all human rights protection systems made known their concern about the existence of security programs and practices that may cause serious harm to the rights to privacy and freedom of thought and expression. There they pointed out that the surveillance of communications and interference with privacy that exceed what is stipulated in the law, that are oriented to purposes other than those authorized by it, or those that are carried out clandestinely should be drastically sanctioned. This Office recalls that in addition to directly interfering with the freedom to seek, receive, and impart information, this type of surveillance could put informants and confidential sources of the press at risk. Any measure aimed at seizing journalistic material, which requires releasing sources or summoning journalists as witnesses, has a restrictive effect on freedom of expression. According to Principle 8 of the Declaration of Principles on

⁶¹⁹ IACHR. Office of the Special Rapporteur for Freedom of Expression. [Special Study on the Status of Investigations into the Murders of Journalists during the 1995-2005 Period for Reasons that may be Related to their Work in Journalism](#). OEA/Ser.L/V/II.131. Doc. 35, March 8, 2008, par. 116.

⁶²⁰ *Ibidem*, par. 125-126; IACHR. Office of the Special Rapporteur for Freedom of Expression. [Impunity, self-censorship and armed internal conflict: An analysis of the state of freedom of expression in Colombia](#). OEA/Ser.L/V/II Doc.51. August 31, 2005, par. 65-66.

⁶²¹ IACHR. [Annual Report 1994. Chapter V: Report on the Compatibility of “Desacato” Laws with the American Convention on Human Rights](#). OEA/Ser.L/V/II.88. Doc. 9. Rev. February 17, 1995.

Freedom of Expression of the IACHR, "every social communicator has the right to keep his/her source of information, notes, personal, and professional archives confidential."

433. **Social protest, which includes the rights of peaceful assembly and without arms, association and freedom of expression, is a fundamental tool in the defense of democracy and human rights.** In this sense, it has been pointed out that "the criminalization *per se* of demonstrations in public streets when they are carried out within the framework of the right to freedom of expression and the right of assembly is, in principle, inadmissible"⁶²² and that "the exercise of the right of assembly through social protest should not be subject to authorization by the authorities or to excessive requirements that make it difficult to carry out".⁶²³ The Office of the Special Rapporteur reiterates the recommendation to adopt regulatory frameworks aimed at protecting and facilitating the exercise of social protest. As has been pointed out on other occasions, sometimes public protest can become the only means that really allows disgruntled sectors of the population, but not aligned with political parties, and groups that are discriminated against or marginalized from the public debate, to make their point of view heard and to influence public debate. Likewise, in relation to the protests, the IACHR has stated that it is a fundamental tool for the defense of human rights and essential for the political and social critical expression of the activities of the authorities. Likewise, it indicated that "the criminalization *per se* of demonstrations in public streets when they are carried out within the framework of the right to freedom of expression and the right to assembly, in principle, is inadmissible"⁶²⁴ and that "the exercise of the right of assembly through social protest should not be subject to authorization by the authorities or excessive requirements that make it difficult to carry out".

COSTA RICA

434. In 2020, the Office of the Special Rapporteur welcomes that many of the reports on regressions to the guarantees of the right of access to information of public relevance to journalists and the media, mainly on issues related to the pandemic, were analyzed and supervised by state entities that serve as checks and balances within the rule of law. This Office recognizes as positive the decisions issued by the Constitutional Chamber of the Supreme Court of Justice that reiterate the importance of accountability and transparency in public management as values that should govern in a democratic society. On the other hand, the Office of the Special Rapporteur noted with concern various acts of attacks against journalists who were exercising their work in the context of public demonstrations. Finally, the Office carefully observes some of the provisions of the new law "to provide legal certainty regarding the strike and its procedures," which establishes new regulations for the exercise of the right to freedom of peaceful assembly, arguing that it is the State's obligation to guarantee the continuity of the provision of public services during strikes.

A. Access to public information

435. Throughout the year, the Office of the Special Rapporteur observed various acts of obstruction of access to public information by the government and its agencies. Thus, for example, on May 12, *Diario Extra* filed an *amparo* writ before the Constitutional Chamber against President Carlos Alvarado, Minister of Labor Geannina Dinarte, and the Executive President of the Mixed Institute for Social Assistance (IMAS) and Minister of Human Development and Social Inclusion José Luis Bermúdez, for hiding the lists of citizen

⁶²² IACHR. [Report on Citizen Security and Human Rights](#). OEA/Ser.L/V/II.Doc. 57. December 31, 2009. Par. 197

⁶²³ IACHR. [Protest and Human Rights](#). OEA/Ser.L/V/II. CIDH/RELE/INF.22/19. Par. 56. September, 2019.

⁶²⁴ IACHR. [Annual Report 2005. Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#) (Chapter V Public Demonstrations as an Exercise of Freedom of Expression and Freedom of Assembly). OEA/Ser.L/V/II.124 Doc. 7. February 27, 2006. Par. 96.

beneficiaries of the “Proteger” bonus, a subsidy implemented by the government in the context of the pandemic.⁶²⁵

436. In July, *Diario Extra* filed an *amparo* before the Constitutional Chamber to order the President Carlos Alvarado Quesada, the Minister of Communication, Agustín Castro Solano, the Minister of Health, Daniel Salas Peraza, and the president of the Costa Rica Social Security Fund (CCSS), Román Macaya Hayes, for violating the right of access to information and freedom of the press, as well as the right to petition, all constitutionally recognized. The remedy seeks that the Government immediately adopt a comprehensive, effective, and transparent information system that enables access to information by the authorities and state agencies. The Costa Rican Association of Journalists and the Ombudsperson Catalina Crespo joined the remedy in cooperation.⁶²⁶

437. As the Office of the Rapporteur learned, in June, the then executive president of the Costa Rican Institute of Aqueducts and Sewers (AyA), Yamileth Astorga, within the framework of a meeting with the AyA union made a call to “not feed” the media *Extra* and *CRHoy.com.*, since in their publications “they only publish things that weaken the image of the institution and what they want is the privatization of it”.⁶²⁷ On August 28, the Constitutional Chamber of the Supreme Court of Justice convicted the president of the Institute for violating freedom of the press and expression by urging other officials to deny information of public relevance to the media. Unanimously, the judges concluded that the “call not to feed the media” is particularly serious given the hierarchical rank of the person who expressed it and that in practice it could become a kind of veiled censorship, since it is encouraged for two media to not receive public information from AyA officials. “The exposed situation hurts the general population, since it prevents the public from accessing information concerning the provision of essential public services, which is unacceptable in a society that is governed by the democratic principle, accountability, and transparency in public management,” said Judge Paul Rueda Lea. Thus, the Court ordered Yamileth Astorga Espeleta, in her capacity as executive president of the Costa Rican Institute of Aqueducts and Sewers, or whoever occupies that position in her place, to refrain from incurring again in the facts that gave rise to the *amparo* writ.⁶²⁸

438. Also, in October, a group of 28 journalists from *La Nación*, *Delfino.CR*, *Monumental*, *Columbia*, *ElperiódicoCR*, *Bsnoticias*, *Telenoticias*, *Diario Extra*, *CRHoy*, *Repretel*, *El Financiero*, *Multimedios*, *Elmundocr*, *Costa Rica Noticias*, *PulsoCR*, and *El Observador*, among others, joined to ask the Legislative Assembly to provide them with the conditions to be able to carry out their journalistic work in Congress. For example, that they be allowed access to the legislative offices of the representatives, as well as to common areas and meeting spaces. According to the signing communicators, these are the “minimum conditions for journalistic work, necessary to ensure freedom of expression and freedom of the press”.⁶²⁹

439. According to publicly known information, on July 31 the Constitutional Chamber ordered the Minister of Health Daniel Salas to deliver within a month the public information that he had denied to journalists David Antonio Bolaños, Edgar Chavarría Hernández, and Hulda Miranda Picado from the digital media *Interferencia*, belonging to Radio Stations of the University of Costa Rica.⁶³⁰ The judgement came after the communicators asked the state agency for a depersonalized database of all confirmed COVID-19 patients, receiving a denial response based on workload that attention to the pandemic requires. “It is materially

⁶²⁵ *Diario Extra*. May 12, 2020. [Ejecutivo oculta lista de bonos Proteger](#); *Diario Extra*. May 13, 2020. [DIARIO EXTRA mete amparo y logra lista de bonos](#).

⁶²⁶ Inter-American Press Association (IAPA). October 14, 2020. [Costa Rica Report to the IAPA 76 General Assembly - October 21-23, 2020](#)<https://www.sipiapa.org/notas/1214100-costa-rica>; *Diario Extra*. July 16, 2020. [DIARIO EXTRA mete amparo por “secuestro” de información](#); *Diario Extra*. July 28, 2020. [Colegio de Periodistas apoya amparo de DIARIO EXTRA](#)

⁶²⁷ Inter-American Press Association (IAPA). October 14, 2020. [Costa Rica Report to the IAPA 76 General Assembly - October 21-23, 2020](#); *Diario Extra*. July 22, 2020. [Gobierno pisotea libertad de prensa](#).

⁶²⁸ Sala Constitucional. August 28, 2020. [En defensa de la libertad de expresión, Sala Constitucional condena a presidenta de AyA por exhortar a funcionarios a no brindar información a la prensa](#); *Delfino*. August 28, 2020. [Sala IV condena a presidenta del AyA por pedir a funcionarios no brindar información a la prensa](#); *La Nación*. August 28, 2020. [Sala IV condena a presidenta del AyA por violentar libertad de prensa y expresión](#); *Semanario Universidad*. August 28, 2020. [Sala Constitucional condena a presidenta del AyA por violentar libertad de prensa](#).

⁶²⁹ *La Nación*. October 18, 2020. [28 periodistas firman manifiesto para exigir libre acceso al nuevo edificio legislativo](#).

⁶³⁰ Radioemisoras UCR. August 3, 2020. [Sala IV ordena a ministro de Salud entregar datos de pandemia que negó a periodistas](#); *CR Hoy*. August 3, 2020. [Sala Constitucional condena al gobierno a revelar datos sobre la pandemia](#); *AM Prensa*. August 3, 2020. [Sala Constitucional condena a Daniel Salas a dar datos del virus que prensa exige](#); *Diario Extra*. August 4, 2020. [Sala IV condena a Daniel Salas](#).

impossible to provide information treated in a different way, as requested by the appellant, without removing resources that are currently used to provide relevant and timely information for decision-makers; in this sense, it deprives the protection of human life as the greatest asset protected by the State over the particular interests of the appellants”, indicated the Minister of Health in the report sent to the Constitutional Chamber.⁶³¹

440. As the Office of the Special Rapporteur learned, the journalists had requested data such as risk factors, days of hospitalization and people's contagion links, as well as whether the virus was imported; in all cases, they did not ask for the patients' identity to be indicated. The judges considered that what was put forward by the Ministry did not constitute a valid justification for denying the right of access to public information. In a ruling unanimously resolved, the judges indicated to the agency that “the scarcity of human or material resources, or the high demand for work, are not valid justifications to deny or condition the delivery of information, much less in a context such as the one we currently live in where, the threat to which public health is exposed and the difficult economic situation experienced by many families, make enforceable an absolute transparency in the conduct of the public power, and an uninterrupted flow of information to the press and other civil society actors”.⁶³² In compliance with the ruling, on September 4 the Ministry of Health published a depersonalized database on patients with COVID-19, with general information such as age, sex, nationality, geographical location of the person, and their migratory condition, as well as information related to the disease, such as the type of contagion, the epidemiological link, among others.⁶³³

441. The Office of the Special Rapporteur observed with concern the president's statement in which he accused the press of “using him to talk about insipid things”, after the media warned him about the little and increasingly reduced space they are offered for consultations on different topics of public relevance. When addressing the press, the president stated that “when it is to build an agenda that is not the agenda of the pandemic or the best interests of Costa Rica, I see a rivalry in my time. I have much to do”. According to journalists and the media, since last year, the head of state would only answer questions that are preselected by his press advisers, which would be mostly those of the media with an editorial line close to his government.⁶³⁴

442. In this context, the Costa Rican Association of Journalists issued a statement in which it warned about the “evident ... setback in the rights to freedom of information, the right to obtain truthful information, and the professional exercise of journalism”, protected by the Constitution of Costa Rica. The institution urged the Government to “find a dialogue” between those responsible for state communication and the media, reminding them that “it is necessary for the media to have access to a real press conference, to different spokespersons and leaders responsible for their respective areas, beyond the health sector, so that journalists may fully fulfill their role without detriment to their right to question the source, and to contradict and contrast the source”.⁶³⁵

B. Attacks against journalists and the media

443. The Office of the Special Rapporteur learned that on August 25, journalists from the television channels *Noticias Columbia*, *Noticias Repretel*, and *Teletica* were subjected to verbal and physical attacks in San José, while covering a protest called by the National Rescue Movement against the government's health measures to contain the spread of COVID-19.⁶³⁶ According to journalist Alejandro Arley, from the program “Por Tres Razones” (*Noticias Columbia*), a group of protesters became violent and, after telling them that he felt harassed, the journalist began to receive shoves and insults. The journalist reportedly appealed to a police officer, but the attacks continued, and he had to be transferred to a place with a greater police presence, for which reason some protesters later rebuked the police, asking them to “better get him out of

⁶³¹ CR Hoy. August 3, 2020. [Sala Constitucional condena al gobierno a revelar datos sobre la pandemia](#).

⁶³² Radioemisoras UCR. August 3, 2020. [Sala IV ordena a ministro de Salud entregar datos de pandemia que negó a periodistas](#).

⁶³³ Radioemisoras UCR. September 4, 2020. [Ministerio de Salud publica datos anonimizados de pacientes covid-19 tras amparo de Interferencia de Radios UCR](#).

⁶³⁴ CR Hoy. July 9, 2020. [Alvarado a la prensa: “Me usan para hablar cosas que son insulsas”](#); La Nación. July 9, 2020. [Carlos Alvarado: ‘A veces siento que me usan para hablar de cosas insulsas’](#); Diario Extra. July 13, 2020. [Presidente no debe discriminar preguntas](#).

⁶³⁵ Facebook / Colper: Colegio de Periodistas de Costa Rica. [July 23, 2020](#); CR Hoy. July 23, 2020. [Colegio de Periodistas pide al Gobierno explicaciones por manejo de la comunicación](#).

⁶³⁶ La Nación. August 25, 2020. [Manifestantes agreden a periodistas de Columbia, Repretel y Teletica](#); Fundamedios. August 26, 2020. [Periodistas son agredidos por manifestantes en Costa Rica](#).

there." Likewise, in this context, the journalist Yahaira Piña and the cameraman Jorge Paniagua from "Telenoticias" (*Teletica*) received insults like "corrupt" and "sell out" by the protesters. A video that circulated through social networks on Twitter shows the moment when a group surrounded and verbally attacked the reporters, who were trying to interview the Costa Rican politician and former parliamentarian José Miguel Corrales. On the other hand, according to the available information, the *Noticias Repretel* team would have been intimidated in the vicinity of the Presidential House, where the communicators Gabriel Cordero, Sigifredo Cerdas, and Rodrigo Ramírez also faced attempts of physical aggression with shoves and insults.

444. On the other hand, the Office of the Rapporteur also received information that the Ministry of Labor and Social Security had ordered its dependencies not to buy *Diario Extra* anymore.⁶³⁷ According to the available information, a letter was sent to the Extra Group, notifying that the subscriptions would be canceled, supposedly in response to superior instructions and in compliance with the new guidelines issued by the Government on mandatory budget cuts in the context of the COVID-19 pandemic. The measure would have been adopted after the *amparo* filed against Geannina Dinarte, Minister of Labor, for refusing to provide the data of the beneficiaries of the Proteger bonus subsidy. In response to the complaint by *Diario Extra*, who described the event as a "new blow to freedom of expression," the Ministry of Labor issued a public statement in which they assured that the health emergency would have led to an unprecedented economic impact in Costa Rica and that is why the Executive presented "the largest historical cut in public spending." According to the portfolio, the cut forced them to release costs in some specific items, which included the cancellation of the subscription that was maintained with some newspapers of national circulation (*Diario Extra*, *La Nación*, *El Financiero*, and *La República*), prioritizing instead the spending on hygiene supplies. "With this we want to be very clear that we are not in the face of an exercise of obstruction of freedom of expression or discrimination against a specific media. We will always respect the serious and responsible work of the media and we recognize the value they have in our democracy", the Ministry concluded.⁶³⁸

C. Legal reforms

445. On January 16, 2020, the Legislative Assembly of Costa Rica approved in debate Law No. 9808 to provide legal certainty regarding the strike and its procedures, which was later sanctioned by the Executive Power on January 21 and entered into force on January 27.⁶³⁹ The law provides in its article 371 that only three types of strike will be considered legal: (1) one whose purpose is to defend and promote economic and social interests; (2) the defense of rights in collective legal conflicts defined in article 386 of the Labor Code; and (3) strikes against public policies, only once, and for a maximum period of 48 hours. Strikes that do not fall into any of these categories will be considered "illegal." In addition, the same article states that any strike that entails blockades in public roads or that prevents access to public facilities or services, the carrying out of sabotage of public property, the perpetration of conduct that involves a criminal offense, or that prevent the right to work of workers who are not on strike, will not be considered peaceful.

446. The law also establishes the prohibition of strikes in certain essential services (article 376) and limitations on strikes in other services considered of transcendental importance (article 376 ter), which it defines as "those that, due to their strategic nature for development socioeconomic status of the country, its paralysis or suspension implies a significant damage to the living conditions of all or part of the population". This last category includes, for example, the education sector, which will not be able to carry out a strike for more than one month. Finally, it points out that the strike suspends the employment contracts with respect to the workers who are participating in the movement; consequently, the employer shall not be obligated to pay the remuneration, except when a court ruling declares that the reasons for the strike are attributable to the employer.

447. In 2019, the Office of the Rapporteur had taken note of the constitutionality query submitted by the opposition representatives to the approval of the project, which at that time was pending resolution by the Constitutional Chamber of the Supreme Court of Justice.⁶⁴⁰ On that occasion, the Office observed with concern

⁶³⁷ *Diario Extra*. July 21, 2020. [Ministra manda no comprar DIARIO EXTRA](#).

⁶³⁸ Ministerio de Trabajo y Seguridad Social / Facebook. [July 22, 2020](#).

⁶³⁹ República de Costa Rica. [Ley N° 9808 para brindar seguridad jurídica sobre la huelga y sus procedimientos](#), January 21, 2020; El País. January 16, 2020. [Diputados aprobaron en segundo debate a proyecto que regula huelgas](#); Delfino. January 20, 2020. [Presidente firma histórica reforma a huelgas](#); Delfino. January 27, 2020. [Histórica ley de reforma a huelgas rige desde este lunes](#).

⁶⁴⁰ El País. September 4, 2019. [Sala IV decidirá sobre constitucionalidad de Ley sobre regulación de huelgas en Costa Rica](#).

the direct and indirect restrictions that the initiative provided for the rights of trade unions and their union members.⁶⁴¹ Finally, when reviewing the queries, Chamber IV of the Supreme Court of Justice (Constitutional Chamber) unanimously declared unconstitutional the provisions of article 350 regarding the dissolution of trade unions. Finally, said reform was eliminated from the project by order of the Constitutionality Consultation Commission in a session of December 17, 2019.⁶⁴²

448. Based on the various facts observed by this Office regarding the obstructions to access to public information, the attacks and assaults against journalists and the media, and the legal reforms that could affect the right to peaceful assembly, the Office of the Special Rapporteur considers that the State should note with special observance that:

449. **Transparency and accountability of public powers strengthen democratic systems.** In this regard, Principle 4 of the IACHR Declaration of Principles on Freedom of Expression establishes that “[a]ccess to information held by the State is a fundamental right of every individual. States have the obligation to guarantee the full exercise of this right. This principle allows only exceptional limitations that must be previously established by law in case of a real and imminent danger that threatens national security in democratic societies.” Likewise, the Office of the Special Rapporteur recalls that the IACHR’s Resolution on Pandemic and Human Rights highlights the importance of access to information in the current context due to COVID-19 and the crucial role that journalists play in the framework of the public health emergency, by reporting on critical points and monitoring government actions. States have the obligation to allow access to official press conferences to all media, without discrimination based on editorial lines, except for the necessary and proportional measures to protect health.⁶⁴³

450. **Aggressions committed against journalists violate the right to freedom of expression both in its individual and collective dimensions and cannot be tolerated in a democratic society.** The Office of the Special Rapporteur recalls that Principle 9 of the Declaration of Principles on Freedom of Expression of the IACHR states that “[t]he murder, kidnapping, intimidation of, and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of States to prevent and investigate such occurrences, to punish their perpetrators, and to ensure that victims receive due compensation.”

451. **Social protest, which includes the rights of peaceful assembly without arms, association, and freedom of expression, is a fundamental tool in the defense of democracy and human rights.** In this sense, the IACHR has considered that “the exercise of the right to assembly through social protest should not be subject to authorization by the authorities or to excessive requirements that make it difficult to carry out”.⁶⁴⁴ Therefore, the legal requirements that establish a basis for a meeting or demonstration to be prohibited or limited are not compatible with the right of assembly or with the exercise of freedom of expression in the Inter-American System.

⁶⁴¹ IACHR. [Annual Report 2019. Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). OEA/Ser.L/V/II. Doc. 5. February 24, 2020. Par. 403.

⁶⁴² Sala Constitucional de la Corte Suprema. [Resolución 2019-20596](#). October 26, 2019; Nación. October 25, 2020. [Documento: voto de la Sala IV sobre el proyecto de ley que limita abusos en huelgas](#); Delfino. January 14, 2020. [Así quedó el texto final del proyecto de Ley de Regulación de Huelgas](#).

⁶⁴³ IACHR. Resolution No. 1/20. [Pandemic and Human Rights in the Americas](#). April 10, 2020.

⁶⁴⁴ IACHR. [Criminalization of the Work of Human Rights Defenders](#), OEA/Ser.L/V/II. Doc. 49/15, December 31, 2015, par. 129.

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452. During 2020, the Office of the Special Rapporteur for Freedom of Expression observed an ongoing pattern of restrictions on freedom of expression and access to public information on the island. We have seen threats, harassment, and the persecution of journalists, dissidents, activists, artists, and teachers who question the regime or disseminate information or opinions on issues of public interest. While the forms of harassment and official restrictions are not new, the IACHR and its Office of the Special Rapporteur note that they have increased in 2020 against the backdrop of the pandemic. In most cases, the persecution of critical speech by the Department of State Security was based on Decree-Law 370 “on the computerization of society in Cuba.” The Office of the Special Rapporteur also received reports alleging that the government had blocked certain applications and websites and tampered with and altered mobile data balances. Many of these incidents took place in an agitated social climate and amid calls for protests, hindering communication and coordination among citizens.

A. Persecution of the independent press

453. During the pandemic, state authorities have used the serious crisis arising from COVID-19 to systematically intimidate and harass journalists working for independent media outlets. Restrictions on press freedom were often covered by Decree-Law 370 “on the computerization of society in Cuba,” which, according to the government, is aimed at enhancing cybersecurity, technological sovereignty, and national security and defense.

454. In March 2020, a few weeks after the outbreak of the COVID-19 pandemic, State Security and the national police sent a summons to independent journalists Yoe Suarez and Camila Acosta to appear for questioning, without giving them any explanation.⁶⁴⁵ In April, journalist Waldo Fernández Cuenca of *Diario de Cuba* was summoned and questioned by police at the Aguilera police station in the municipality of Diez de Octubre, Havana, where he was threatened with prosecution for being “unemployed.”⁶⁴⁶ The police then visited him at his home to warn him that he would be monitored because he was a “potential criminal.”⁶⁴⁷

455. In April, journalist Camila Acosta alleged that four doctors, in charge of treating patients who had respiratory symptoms or were linked to confirmed cases of COVID-19, visited her at her residence because they had supposedly received a complaint from a neighbor. According to the journalist, it was an attempt by State Security to isolate her.⁶⁴⁸ Throughout 2020, the Office of the Special Rapporteur noted repeated acts of harassment by Cuban State Security against independent journalist Camila Acosta, who was fined, summoned for interrogation, warned, and evicted on several occasions.⁶⁴⁹

456. Imposing steep fines has been another way the government has attempted to limit independent journalism. On April 6, Esteban Rodríguez, a contributor to *ADN Cuba*, was fined US\$120⁶⁵⁰ for publishing posts critical of the regime on his Facebook account. According to the reporter, “the Cuban regime, instead of paying attention to what is happening in the country because of the coronavirus, is more concerned about us opponents. They fined me because, according to them, I am slandering them.”⁶⁵¹

457. The harassment of independent journalists also includes intimidation of their family members. In April, intellectual and journalist Julio Aleaga Pesant reported that his wife had been summoned by the police for interrogation at a police station in Havana’s Plaza de la Revolución municipality, where she was allegedly threatened with deportation to Santiago de Cuba, where she is from.⁶⁵² The journalist also said that, as of March 2020, the police had called him in for questioning at least six times.

458. On January 8, officers of the National Revolutionary Police and the Cuban Intelligence Directorate raided the home of *CiberCuba* reporter Iliana Hernández in the town of Cojímar, east of Havana. According to available information, the officers took several of her personal belongings, including her personal computer and cell phone, and fined her for violating Decree-Law 370 “on the computerization of society in Cuba.”⁶⁵³ After the raid, the officers handed Iliana Hernández a summons indicating that she was charged with the crime of receiving stolen property and ordered her to report to the police on January 13. According to a

⁶⁴⁵ ADN Cuba. March 27, 2020. [Periodistas independientes son citados por la seguridad del estado en medio de crisis por el coronavirus](#); Radio Televisión Martí. April 2, 2020. [Solidaridad Cristiana Mundial condena hostigamiento a periodista cubano](#); Cubanet. April 3, 2020. [Denuncian represión contra periodista independiente cubano Yoe Suárez](#).

⁶⁴⁶ April 4, 2020. [Waldo Fernández Cuenca, otro periodista de DIARIO DE CUBA 'interrogado' en medio de la pandemia](#).

⁶⁴⁷ Diario de Cuba. April 25, 2020. ['Eres potencial delictivo', advierte la Policía al periodista de DIARIO DE CUBA Waldo Fernández Cuenca](#); Heraldo de Cuba. April 25, 2020. [«Eres Potencial Delictivo», Advierte La Policía Al Periodista De DIARIO DE CUBA Waldo Fernández Cuenca](#).

⁶⁴⁸ ADN Cuba. April 8, 2020. [Régimen cubano intenta aislar a Camila Acosta por supuestos síntomas de coronavirus](#); Cubanet. April 8, 2020. [El régimen intenta aislar a Camila Acosta por supuestos síntomas de COVID-19](#).

⁶⁴⁹ ADN Cuba. March 28, 2020. [Órganos represivos cubanos multan con 3000 pesos a la periodista Camila Acosta](#); Cubanet. April 15, 2020. [Policía hostiga a Camila Acosta y Omara Ruiz Urquiola en plena pandemia](#); ADN Cuba. April 15, 2020. [Seguridad del Estado continúa el asedio a periodista independiente Camila Acosta](#); Radio Televisión Martí. May 3, 2020. [En Cuba un periodista independiente es casi un corresponsal de guerra](#); Radio Televisión Martí. July 21, 2020. [Periodista otra vez en la calle por presión de la Seguridad del Estado a sus arrendatarios](#); CiberCuba. July 31, 2020. [Periodista independiente Camila Acosta graba su detención en La Habana](#); Cubanet. July 31, 2020. [Régimen libera a Camila Acosta bajo amenaza: “Quieren que me vaya del país o que deje de hacer periodismo”](#).

⁶⁵⁰ A 120 dollar fine is equal to 3,000 Cuban pesos, a hefty sum in relation to the average Cuban income.

⁶⁵¹ ADN Cuba. April 7, 2020. [Imponen multa de 120 dólares a colaborador de ADN Cuba](#).

⁶⁵² Radio Televisión Martí. March 19, 2020. [La Policía política arreca amenazas a periodistas independientes](#); Radio Televisión Martí. April 3, 2020. [Periodistas independientes denuncian acoso de Seguridad del Estado contra sus familiares](#); Cubanet. April 3, 2020. [Régimen amenaza a esposa del periodista independiente Julio Aleaga Pesant](#).

⁶⁵³ 14 y medio. January 8, 2020. [La policía registra la casa de la reportera Iliana Hernández](#); Cubanet. January 8, 2020. [Policía castrista allana vivienda de periodista independiente Iliana Hernández](#); Radio Televisión Martí. January 15, 2020. [Iliana Hernández: “La policía que allanó mi casa venía en busca de pintura roja” por Clandestinos](#); Committee to Protect Journalists (CPJ). January 28, 2020. [Cuban reporter Iliana Hernández charged with illegally possessing journalistic equipment](#)<https://cpj.org/es/2020/01/autoridades-acusan-a-la-periodista-cubana-iliانا-h/>; CiberCuba. February 9, 2020. [Policía del régimen multa e incauta medios de trabajo a periodista de CiberCuba Iliana Hernández](#); Diario de Cuba. February 10, 2020. [La Policía multa y decomisa sus herramientas de trabajo a Iliana Hernández](#); CiberCuba. August 1, 2020. [Periodista Camila Acosta: “Me pusieron un acta de advertencia por incitación para delinquir”](#).

report by Article 19, in the last three years the journalist has been detained at least 13 times by Department of State Security agents, sometimes violently, on others just to intimidate her.⁶⁵⁴

459. According to information obtained by this office, between April and May, Niober García Fournier, an independent journalist with the *Palenque Visión* agency and collaborator of *People in Need*, was summoned for interrogation by State Security twice in the space of a little over a month. Both times, he was fined 3,000 pesos (US\$120) for violating Decree-Law 370.⁶⁵⁵

460. On April 8, State Security threatened independent journalist Osniel Carmona Breijo with “making him disappear indefinitely, from prison cell to prison cell with no one knowing his whereabouts” because of his reports on the coronavirus crisis in Havana. The reporter regularly publishes information on the pandemic and its impact on the population of the Cuban capital in the newspaper *Amanecer Habanero*.⁶⁵⁶

461. On April 17, Mónica Baró, a journalist for the magazine *El Estornudo*, was fined for allegedly violating Decree-Law 370. According to the information received, she was summoned to a National Revolutionary Police station in Havana and interrogated for about two hours.⁶⁵⁷ She was also accused of working for media outlets that accept financing from foreign organizations that aim to “overthrow the Cuban revolution.”⁶⁵⁸

462. On April 18, Jorge Enrique Rodríguez, a journalist for *Diario de Cuba* and correspondent for the newspaper *ABC*, was intercepted on the street and taken to the Zanja police station in Havana, where he was interrogated for over two hours. There, State Security informed him that he was being investigated for “disseminating fake news,” which is punishable by a prison sentence of between one and four years.⁶⁵⁹ On June 28, Rodríguez was detained at the Vivac criminal processing center in Havana. According to available information, his arrest was linked to news coverage of the death of Hansel Hernández and the alleged police involvement in his death, as well as demonstrations to demand justice.⁶⁶⁰ Cuban authorities reportedly prevented a protest that had been announced and implemented measures to obstruct all media coverage surrounding the event. Some 48 journalistic and human rights organizations alerted the IACHR and the United Nations about the arrest of the *Diario de Cuba* reporter.⁶⁶¹ A group of activists—led by the coordinator of the Cuban Youth Dialogue Table, Kirenía Yalit Núñez Pérez, and scientist and activist Oscar Casanella—filed a writ of habeas corpus with the Havana Court on behalf of Jorge Rodríguez.⁶⁶² On July 2, the IACHR and its Office of the Special Rapporteur expressed grave concern over the journalist’s imprisonment for alleged contempt of authority [*desacato*], and recalled that detaining journalists for practicing their profession is

⁶⁵⁴ Article 19, Oficina para México y Centroamérica. [Bajo sentencia: la censura en Cuba, Guatemala y Honduras](#). August 31, 2020.

⁶⁵⁵ ADN Cuba. April 15, 2020. [Multa de 120 dólares a activista por publicar en Facebook](#); Periódico Cubano. April 15, 2020. [Multa de 3.000 pesos para el periodista independiente cubano Niober García Fournier](#); Diario de Cuba. April 16, 2020. [3.000 pesos de multa por hacer periodismo independiente en tiempos de Covid-19 en Cuba](#); Cubanet. May 20, 2020. [Niober García Fournier, doblemente azotado por el Decreto-Ley 370](#); Radio Televisión Martí. May 21, 2020. [Periodista multado dos veces en un mes por el Decreto 370](#).

⁶⁵⁶ Radio Televisión Martí. April 13, 2020. [“Te vamos a desaparecer por tiempo indefinido”, advierte policía política a periodista habanero](#); Periódico Cubano. April 13, 2020. [Periodista Osniel Carmona recibe amenazas por informar acerca del coronavirus en La Habana](#); Cubanet. April 14, 2020. [“Te vamos a desaparecer por tiempo indefinido, de calabozo en calabozo”](#); El Heraldo de Cuba. April 16, 2020. [El comunicador estuvo detenido 11 horas y también amenazaron a su esposa](#).

⁶⁵⁷ Cubanet. April 17, 2020. [Multan a la periodista Mónica Baró por “violar” Decreto-Ley 370](#); CiberCuba. April 17, 2020. [Seguridad del Estado multa con 3000 pesos a la periodista independiente cubana Mónica Baró](#); Diario de Cuba. April 18, 2020. [‘No me van a callar’: otra periodista independiente multada con 3.000 pesos](#).

⁶⁵⁸ Committee to Protect Journalists (CPJ). April 21, 2020. [Cuban journalist Mónica Baró fined over Facebook posts under new internet decree](#).

⁶⁵⁹ Diario de Cuba. April 19, 2020. [Jorge Enrique Rodríguez, otro periodista de DIARIO DE CUBA interrogado y procesado](#); ADN Cuba. April 19, 2020. [El acoso continúa: Policía política interroga al periodista cubano Jorge E. Rodríguez](#).

⁶⁶⁰ Cubanet. June 30, 2020. [Detenido y a la espera de juicio periodista independiente Jorge Enrique Rodríguez](#); 14 y medio. July 1, 2020. [Detenido y a la espera de juicio el periodista independiente Jorge Enrique Rodríguez](#); Committee to Protect Journalists (CPJ). July 2, 2020. [Cuban journalist Jorge Enrique Rodríguez detained amid protests, awaiting trial](#)<https://cpj.org/es/2020/07/en-medio-de-protestas-las-autoridades-detienen-al-periodista-cubano-jorge-enrique-rodriguez-quien-esta-a-la-espera-de-juicio/>; Cubanet. July 4, 2020. [Liberan a Jorge Enrique Rodríguez: “Salí por los amigos que hicieron la campaña”](#).

⁶⁶¹ Cubanet. July 3, 2020. [Sociedad civil cubana exige la liberación del periodista Jorge Enrique Rodríguez](#).

⁶⁶² ADN Cuba. July 3, 2020. [Activistas presentan Habeas Corpus a favor de periodista independiente Jorge Enrique Rodríguez](#); Cubanet. July 3, 2020. [Presentan Habeas Corpus a favor de Jorge Enrique Rodríguez](#).

incompatible with the principles of freedom of expression.⁶⁶³ He was finally released on July 3 after six days in custody.⁶⁶⁴

463. According to information obtained by the Office of the Special Rapporteur, on April 24, repressive forces from the State Security Department and the National Revolutionary Police arrived at the home of *CubaNet* journalist Enrique Díaz Rodríguez and took him to the Playa Territorial Investigations Unit, where he was interrogated about several journalistic articles. The officers then brought him before an inspector from the Ministry of Communications who, under Decree-Law 370, fined him 3,000 pesos.⁶⁶⁵

464. According to publicly available information, on May 1, 2020, journalist Héctor Miguel Sierra was summoned, interrogated, and threatened with imprisonment for publishing a photo of a National Revolutionary Police (PNR) officer without a mask in the community media outlet *Cimarrón de Mayabeque*. The reporter was again violently detained by police officers on July 24.⁶⁶⁶

465. On June 1, journalist Emilio Almaguer de la Cruz was arrested by authorities in Baracoa municipality (Guantánamo province) for alleged defamation of a local government official. According to available information, the arrest took place days after the journalist posted on social media that Mayor Norge Rodríguez Delgado was being investigated for embezzlement of public funds.⁶⁶⁷

466. On July 27, Yadisley Rodríguez Ramírez, a reporter for *Palenque Visión*, was detained by State Security in Camagüey province. The Office of the Special Rapporteur also learned that police and State Security officers had entered her home without a warrant, confiscating two telephones and a personal computer. According to the journalist, she was taken to the headquarters of the Ministry of the Interior, where she was detained for 15 hours while the officers questioned her about the whereabouts of Rodríguez Lobaina, a political activist, director of *Palenque Visión*, and political activist and member of the Eastern Democratic Alliance [*Alianza Democrática Oriental*]. She was eventually released with a warning letter.⁶⁶⁸

467. According to publicly available information, on October 2, Abraham Jiménez Enoa, a freelance journalist, founder of *El Estornudo* and a contributor to *The Washington Post* and *Gatopardo* magazine, presented himself for police questioning when State Security agents allegedly posing as civilians forced him to undergo a strip search, handcuffed him, and took him to the agency headquarters. There he was questioned for nearly five hours and threatened with prosecution for “unauthorized practice” if he continued to publish in *The Washington Post* because “the media outlet was not accredited in Cuba.” They also allegedly told him they would “start a war” against his family and relatives.⁶⁶⁹ The journalist said that the harassment and intimidation is due to his being “regulated,” a term used in Cuba to refer to people who are arbitrarily prevented by the authorities from leaving the country.⁶⁷⁰ In June, Abraham Jiménez Enoa had complained that several State Security agents and a patrol car with four officers had “stationed themselves” at his home to prevent him from covering the protest over the death of the youth Hansel Hernández.⁶⁷¹

⁶⁶³ Twitter account of Inter American Commission of Human Rights (@CIDH). [July 2, 2020](#).

⁶⁶⁴ Cubanet. July 3, 2020. [Liberan a Jorge Enrique Rodríguez: “Salí por los amigos que hicieron la campaña”](#); CiberCuba. July 4, 2020. [Liberado el periodista independiente Jorge Enrique Rodríguez](#).

⁶⁶⁵ Cubanet. April 24, 2020. [Régimen cubano arresta a periodista de CubaNet Enrique Díaz](#); CiberCuba. April 29, 2020. [Periodista cubano Enrique Díaz habla de su arresto y multa de 3000 pesos por el Decreto Ley 370](#).

⁶⁶⁶ Cubanet. May 4, 2020. [Amenazan a periodista del ICLEP por informar sobre la COVID-19](#); Voces del Sur. July 25, 2020. [Periodista del ICLEP es detenido arbitrariamente, robado y humillado por oficiales de la Policía Política cubana](#).

⁶⁶⁷ Radio Televisión Martí. June 4, 2020. [Emiliano Almaguer acusado por difamación tras denunciar corrupción](#); Cubanet. June 5, 2020. [Acusan por difamación a periodista que denunció corrupción en Baracoa](#); Periódico Cubano. June 5, 2020. [Arrestado periodista independiente por denunciar corrupción en Baracoa](#).

⁶⁶⁸ Diario Las Américas. July 28, 2020. [Arrestan a reportera de Palenque Visión en Cuba](#); Periódico Cubano. July 28, 2020. [Periodista independiente Yadisley Rodríguez en paradero desconocido tras arresto](#); Radio Televisión Martí. July 31, 2020. [Reportera de Palenque Visión envía mensaje a sus colegas: “No se dejen avasallar ni intimidar”](#); Committee to Protect Journalists (CPJ). August 5, 2020. [Cuban security forces detain Yadisley Rodríguez Ramírez, interrogate her about news agency director](#).

⁶⁶⁹ 14 y medio. October 1, 2020. [La policía amenaza con la cárcel al periodista Abraham Jiménez Enoa](#); Infobae. October 3, 2020. [Lo desnudaron, esposaron y amenazaron: la brutalidad del régimen cubano contra el periodista Abraham Jiménez Enoa](#); The Washington Post. October 5, 2020. [If this is my last column here, it's because I've been imprisoned in Cuba](#).

⁶⁷⁰ Committee to Protect Journalists (CPJ). October 6, 2020. [CPJ calls on Cuban security forces to stop threatening Washington Post columnist Abraham Jiménez Enoa](#).

⁶⁷¹ Infobae. June 30, 2020. [El régimen cubano detuvo al periodista Abraham Jiménez Enoa, columnista del Washington Post](#); CiberCuba. June 30, 2020. [Policía cita a periodista independiente cubano Abraham Jiménez Enoa](#).

468. Between November and December, State Security agents reportedly besieged the building where 14 y Medio journalist Luz Escobar lives in Havana, preventing her from leaving her home. According to available information, the siege is said to have lasted at least 10 days.⁶⁷² Similarly, Carlos Manuel Álvarez, the editor of *El Estornudo* magazine and a contributor to *El País*, was reportedly placed under de facto “house arrest” for at least 17 days, on the pretext of mandatory COVID-19 isolation after having traveled to the country from abroad, even though he had a negative PCR test result.⁶⁷³ On December 14, when he tried to leave his home in the city of Cárdenas, Matanzas province, he was reportedly arrested by two plainclothes policemen who prevented him from leaving his house and took him to a police station, from where he was released six hours later.⁶⁷⁴ On December 21, the journalist and writer was reportedly summoned by State Security to a local police station in Havana, where he was questioned for over two hours and then forcibly taken to Cárdenas, where his family lives.⁶⁷⁵ The reporter further alleged that the political police threatened his family with prosecution and imprisonment if he left the city of Cárdenas. According to the information available, the siege and intimidation of the two journalists were related to their participation in the November protest of the San Isidro Movement against the arrest of Denis Solis.⁶⁷⁶

469. On December 11, Reinaldo Escobar, journalist and editor-in-chief of 14 y Medio, was reportedly detained by State Security outside the building where he lives in Havana and taken to the National Revolutionary Police (PNR) station at Zapata and C, in Vedado. He was released nearly five hours later.⁶⁷⁷ According to information provided by the media, the arrest occurred hours after the journalist participated, along with other representatives of Cuban civil society, in an extraordinary session of the European Parliament to analyze the results of the Political Dialogue and Cooperation Agreement between the European Union and Cuba, signed in December 2016.⁶⁷⁸

470. Independent media outlets reporting on COVID-19 were persecuted amidst allegations of misrepresentation of infection figures, as well as errors and inaccuracies. On several occasions, *Inventario*, an independent data journalism initiative, exposed misreporting by the Ministry of Public Health (MINSAP) and called for greater transparency.⁶⁷⁹ In an April press release, the Office of the Special Rapporteur expressed concern about restrictions on the work of the press during the pandemic at the regional level, and made special mention of Cuba and the enforcement of Decree-Law 370.⁶⁸⁰ The IACHR and its Office of the Special Rapporteur called on States to guarantee the right to freedom of expression and access to information, and to guarantee the critical role of the press in a pandemic, in keeping with Resolution 1/20 on Pandemics and Human Rights issued by the Inter-American Commission on Human Rights.

⁶⁷² Periódico Cubano. December 5, 2020. [Vuelven a sitiar a la periodista Luz Escobar para que no visite la sede de San Isidro](#); Periódico Cubano. December 5, 2020. [“Informar no es delito”: Policías vestidos de civiles impiden salir de casa a Luz Escobar](#); Committee to Protect Journalists (CPJ). December 10, 2020. [Cuban journalist Luz Escobar barred from leaving home since December 4](#).

⁶⁷³ ADN Cuba. November 30, 2020. [Periodista Carlos Manuel Álvarez denuncia que continúa sitiado por policía política](#); Periódico Cubano. December 5, 2020. [Carlos Manuel Álvarez denuncia que Seguridad del Estado lo mantiene sitiado desde hace 3 días](#); Diario de Cuba. December 5, 2020. [El periodista Carlos Manuel Álvarez denuncia que lo mantienen en Matanzas en ‘secuestro domiciliario’](#); Carlos Manuel Álvarez / Facebook. [December 14, 2020](#).

⁶⁷⁴ CiberCuba / Facebook. December 14, 2020. [Última hora: la Seguridad del Estado detiene a Carlos Manuel Álvarez](#); 14 y Medio. December 14, 2020. [Después de un forcejeo con la policía política, levantan el cerco a la casa del escritor Carlos Manuel Álvarez](#); Twitter account of Carlos M. Álvarez (@EspirituCarlos). [December 15, 2020](#); El País. December 15, 2020. [Liberado el escritor cubano Carlos Manuel Álvarez, detenido al intentar salir de su domicilio](#).

⁶⁷⁵ 14 Y Medio. December 21, 2020. [El escritor Carlos Manuel Álvarez denuncia su secuestro por la policía política y su deportación a Cárdenas](#); El Estornudo / Facebook. December 21, 2020. [Carlos Manuel Álvarez denuncia la violación de sus derechos](#); Committee to Protect Journalists (CPJ). December 23, 2020. [Cuban journalist Carlos Manuel Álvarez harassed, assaulted by security agents](#).

⁶⁷⁶ El País. December 15, 2020. [Liberado el escritor cubano Carlos Manuel Álvarez, detenido al intentar salir de su domicilio](#).

⁶⁷⁷ 14 y Medio. 11 de diciembre de 2020. [Reinaldo Escobar, liberado después de casi cinco horas secuestrado e interrogado por la policía política](#); Radio Televisión Martí. 11 de diciembre de 2020. [Secuestro, detención, interrogatorio y amenazas a Reinaldo Escobar](#).

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⁶⁷⁹ Cubanet. April 30, 2020. [Denuncian “reportes erróneos” del MINSAP sobre coronavirus en Cuba](#); Cubanet. May 20, 2020. [Piden “transparencia” en los reportes oficiales sobre COVID-19 en Cuba](#).

⁶⁸⁰ IACHR. Office of the Special Rapporteur for Freedom of Expression. [Press release R78/20. IACHR and its SR FOE express concern about restrictions on freedom of expression and access to information in States’ response to the COVID-19 pandemic](#)<http://www.oas.org/es/cidh/expresion/showarticle.asp?artID=1173&IID=2>. April 18, 2020.

471. Finally, the Office of the Special Rapporteur welcomed the news of the release of journalist Roberto Quiñones on September 4, 2020, a few days after he had served a year in prison.⁶⁸¹ The independent journalist said that in prison he had been denied “all the benefits” to which he was entitled, and he condemned the overcrowded conditions, poor quality of water and food, and lack of adequate medical care.⁶⁸² The *Cubanet* reporter was convicted on August 7, 2019 by the Guantanamo municipal court and sentenced to one year in prison for the crimes of resisting arrest and disobedience. According to information monitored by the Office of the Special Rapporteur in 2019, Roberto Quiñones was reportedly detained and beaten by National Revolutionary Police (PNR) officers while covering a trial that the Cuban State was conducting against the Rigal-Exposito couple, who were prosecuted for their decision to homeschool their children, among other older cases.

472. According to information received by the Office of the Special Rapporteur, after his release Roberto Quiñones continued to be subjected to intimidation by State Security. For example, he was allegedly threatened with the airing on state television of a video that would harm his personal reputation if he continued his work as an independent journalist.⁶⁸³ He also reported that his internet access has been blocked, including his email and other platforms where he does his work. According to Quiñones, he was prevented from accessing his email and video platforms he uses for work.⁶⁸⁴

B. Politically motivated threats and persecution of activists, artists, and members of the opposition

473. In 2020, the Office received reports of artists, activists, and members of the opposition being fined and threatened by State Security because of their political opinions or their criticism on social media of the regime’s handling of the pandemic.⁶⁸⁵ Penalties were generally imposed under Decree-Law 370 of 2018 “on the computerization of society in Cuba,” published in July 2019 in the Official Gazette of the Republic.

474. In 2019, the Office of the Special Rapporteur for Freedom of Expression expressed concern about some provisions of this Decree-Law. For example, Article 68, which establishes “violations associated with information and communication technologies,” could establish a censorship regime in the country and serve as a legal instrument to punish the independent press. The penalties in Chapter II could also be disproportionate, as they include, for example, the “confiscation of the equipment and means used to commit the violations,” the “temporary suspension or permanent cancellation of the license,” the “closure of facilities,” and fines of up to several hundred U.S. dollars, which are substantial amounts in Cuban pesos.

475. Visual artist Luis Manuel Otero Alcántara was arrested on March 1 while on his way to a protest called “public kissing” in front of the Cuban Institute of Radio and Television, in response to the censorship of a gay kiss in a film aired on Cuban television.⁶⁸⁶ According to information obtained by the Office of the Special Rapporteur, the artist had been harassed multiple times in recent years, including 21 arrests in connection with his public protests. This time, Otero was charged with the crimes of insulting patriotic symbols and property damage because of an artistic performance in which he was photographed with the Cuban flag in

⁶⁸¹ ABC. September 4, 2020. [Liberan al periodista cubano Roberto Quiñones tras casi un año en prisión](#); 14 y medio. September 4, 2020. [Liberan al periodista Roberto Quiñones tras un año en prisión](#); Deutsche Wele (DW). September 5, 2020. [Cuba libera a periodista independiente Roberto Quiñones](#);

⁶⁸² Radio Televisión Martí. July 22, 2020. [Quiñones Haces, más delgado y sin acceso a la debida atención médica en prisión](#); ADN Cuba. July 22, 2020. [Roberto Quiñones: más delgado y sin la debida atención médica en prisión](#).

⁶⁸³ Cibercuba. September 5, 2020. [Seguridad del Estado amenazó a Roberto Quiñones con difundir vídeo si no deja el periodismo independiente](#).

⁶⁸⁴ Cibercuba. October 29, 2020. [Periodista Roberto Quiñones denuncia que el régimen cubano le bloquea Internet](#).

⁶⁸⁵ ADN Cuba. April 2, 2020. [Multan y amenazan de muerte a activistas cubanos por publicar en redes sociales](#); Radio Televisión Martí. April 2, 2020. [Multas y amenazas a opositores por comentar sobre el coronavirus en la isla](#); ADN Cuba. April 2, 2020. [Multan y amenazan de muerte a activistas cubanos por publicar en redes sociales](#); Radio Televisión Martí. April 2, 2020. [Multas y amenazas a opositores por comentar sobre el coronavirus en la isla](#); Cubanet. April 14, 2020. [Decreto-Ley 370 o “Ley Azote” a la libertad de expresión en Cuba](#); Radio Televisión Martí. April 23, 2020. [Activistas del FANTU: Nos multan para intentar silenciarnos](#); ADN Cuba. April 24, 2020. [Decreto 370: Multan al activista Raux Denis por hacer denuncias en Facebook](#); Cubanet. May 10, 2020. [Multan a opositora Yanisbel Valido por “violiar” Decreto-Ley 370](#).

⁶⁸⁶ El País. March 5, 2020. [Detenido en Cuba el artista y activista Luis Manuel Otero Alcántara](#); ABC. March 6, 2020. [Arrestan en Cuba al artista Luis Manuel Otero Alcántara](#); CubaLex. March 11, 2020. [Cuba: alert from Luis Manuel Otero arbitrary detention and the increasing attacks against freedom of artistic expression](#); Amnesty International. March 13, 2020. [Cuba: Amnesty International calls for release of artist and prisoner of conscience](#).

different situations. The prosecution reportedly sought a prison sentence of two to five years. According to available information, the artist was detained for two weeks and released on March 14.

476. On April 1, Ovidio Martín Castellanos, a member of the leadership of the Patriotic Union of Cuba (UNPACU) and organizer of *Cuba Decide* was detained for a few hours at the second police unit in Santiago de Cuba.⁶⁸⁷ The opposition activist had already been arrested once that day and fined under Decree-Law 370 for his anti-regime publications on social media. He was also fined 200 Cuban pesos for the alleged offense of “enemy propaganda.”⁶⁸⁸

477. In April, José Aguiar González, a Cuban citizen and resident of the city of Cienfuegos, was fined 3,000 pesos under Decree-Law 370 for recording and posting a video online showing the risks of infection faced by some groups of people living on the street.⁶⁸⁹ The Office of the Special Rapporteur documented numerous similar incidents of arrests and threats of fines against citizens who denounced the substandard conditions in which coronavirus patients were being treated or made other critical statements on matters of public interest.⁶⁹⁰

478. On April 13, after leaving a police interrogation, YouTuber Yander Serra was arrested while livestreaming in the city of Manzanillo (Granma province) and condemning the threats he had received. The young man had reportedly been called in for questioning because of his social media posts about the epidemiological situation in Manzanillo.⁶⁹¹ On June 8, he was again interrogated for two hours in connection with one of his latest public videos and fined 3,000 pesos.⁶⁹²

479. On April 17, rapper Maykel Osorbo was arrested while livestreaming on Facebook outside his home in Old Havana and taken away in a patrol car driven by National Revolutionary Police (PNR) officers and State Security Department agents.⁶⁹³ The artist was released four days later.⁶⁹⁴ In July, he was detained again and held for 12 hours at the San Miguel del Padrón police station, accused of the crime of “defamation of institutions and organizations and of heroes and martyrs.” According to the information received, the charges were related to his social media posts after the musician “El Dany” died as a result of alleged medical negligence. In his posts, he questioned President Miguel Díaz-Canel and the Ministry of Public Health and called for an explanation of what had happened.⁶⁹⁵ Days later, he and his partner were summoned to a police station in Old Havana by an official from the Ministry of the Interior’s Directorate of Minors, who threatened to take custody of their 4-year-old daughter.⁶⁹⁶

480. According to information received by the Office of the Special Rapporteur, artist Denis Solís was arrested by the police on November 9 after several days of harassment.⁶⁹⁷ In the previous weeks, the artist had tattooed “*Cambio Cuba Libre*” on his torso, sharing it on social media and expressing his disagreement with the regime’s policies. A few days before his arrest, the police had reportedly entered his home without

⁶⁸⁷ Cubanet. May 6, 2020. [Detienen a Ovidio Martín Castellanos y amenazan con dejarlo en prisión](#); Radio Televisión Martí. May 6, 2020. [Arrestado en Cuba Ovidio Martín Castellanos, activista de UNPACU](#); Diario de Cuba. May 8, 2020. [El régimen encarcela y acusa de un delito común a otro activista de la UNPACU](#); Periódico Cubano. May 8, 2020. [Opositor cubano Ovidio Martín Castellanos detenido y acusado de supuesto delito de cohecho](#).

⁶⁸⁸ Radio Televisión Martí. April 2, 2020. [Coordinador de UNPACU arrestado y multado por comentar en redes sociales](#).

⁶⁸⁹ Radio Televisión Martí. April 17, 2020. [Multas y amenazas por grabar video de desamparados en Cienfuegos \(VIDEO\)](#); Radio Viva 24. April 18, 2020. [Multas por filmar video de desamparados en Cienfuegos](#).

⁶⁹⁰ ADN Cuba. April 20, 2020. [Multan a cubano por denunciar en ADN Cuba condiciones precarias de su comunidad](#); Radio Televisión Martí. April 22, 2020. [Arrestado, amenazado y multado por revelar casos en hogar de ancianos en Santa Clara](#).

⁶⁹¹ Cubanet. April 13, 2020. [Detienen en Granma a youtuber cubano mientras realizaba una directa](#); CiberCuba. April 14, 2020. [Detenido el YouTuber Yander Serra mientras hacía un video en “directo” desde Manzanillo](#).

⁶⁹² Periódico Cubano. June 9, 2020. [Youtuber cubano Yander Serra es multado por su “clasificación de chivatos”](#); Diario de Cuba. June 9, 2020. [Un youtuber que presentó una clasificación de ‘chivatos’ en Cuba, detenido y multado por el 370](#); Radio Televisión Martí. June 9, 2020. [“Odiar la verdad”: Multan a youtuber cubano con 3.000 pesos por video sobre “chivatos”](#).

⁶⁹³ CiberCuba. April 16, 2020. [Detienen al rapero cubano Maykel Osorbo por sus publicaciones en las redes sociales](#); Cubanet. April 17, 2020. [Régimen acusa a Maykel Osorbo de “desacato” y “propagación de epidemias”](#).

⁶⁹⁴ ADN Cuba. April 18, 2020. [Régimen cubano libera al rapero Maykel Osorbo](#); Radio Televisión Martí. April 18, 2020. [Maykel Osorbo fue detenido y liberado luego que activistas protestaran](#).

⁶⁹⁵ Cubanet. July 21, 2020. [A Maykel Osorbo “lo procesarían por difamar a las instituciones del Estado”](#); Radio Televisión Martí. July 21, 2020. [Acusan a rapero El Osorbo de “difamación a la medicina cubana” por directa sobre muerte de El Dany](#).

⁶⁹⁶ CiberCuba. July 27, 2020. [Amenazan a Maykel Osorbo con quitarle la custodia de su hija por declaraciones sobre la muerte de El Dany](#); Diario de Cuba. July 28, 2020. [El régimen cubano amenaza a Maykel Castillo con despojarlo de la custodia de su hija](#).

⁶⁹⁷ Diario de Cuba. November 10, 2020. [Tras varios días de acoso la Policía cubana detiene al activista Denis Solís](#).

his consent or a warrant. Solís reportedly recorded his discussion with the police officer and then broadcast it on his social media accounts. According to media reports, on November 11, the activist was tried by the Municipal Court of Old Havana, which sentenced him to 8 months in prison for allegedly committing the crime of “contempt of authority” [*desacato*], a decision upheld by the Provincial Court of Havana.⁶⁹⁸

481. On November 10, members of the San Isidro Movement, of which Denis Solís is a member, reportedly filed a writ of habeas corpus with the Havana Provincial Court to request his release.⁶⁹⁹ On November 13, art curator and teacher Anamely Ramos went to the police station on Cuba and Chacón to inquire about Denis’s status. There, an officer told her, without further details, that a trial had already been held for contempt of authority and, following the conviction, Denis had been ordered transferred to the Valle Grande prison, where he was “waiting for the judgment against him to become final.” The Movement released a statement condemning the accelerated proceedings against the activist. “In just three days, a citizen of this country was violently arrested without charges, transferred to three institutions of the repressive forces and prosecuted on fabricated grounds. All of this occurred without him being allowed a single phone call,” they stated.⁷⁰⁰

482. For several consecutive days, dozens of artists, activists, and academics held demonstrations demanding the release of Denis Solís, which reportedly led to a wave of arbitrary arrests and police violence lasting more than three days.⁷⁰¹ Since November 16, State Security agents in civilian clothes have had the block where the San Isidro Movement is headquartered in Old Havana under siege and cordoned off. Over 15 artists, activists and independent journalists gathered inside the building for a poetry reading to demand the release of the artist and opposition leader. The IACHR and its Office of the Special Rapporteur received with particular concern reports that Daylys Bandera Rodríguez, a neighbor supplying them with food, had been intercepted. This reportedly led to the declaration of a hunger and thirst strike by some activists at the event, which is ongoing. Anamely Ramos stated that the hunger strike would continue until Denis’s release. On November 22, at least fifteen people, including activists and journalists, were reportedly detained by the authorities during a demonstration supporting the San Isidro Movement. Among them was *14 y Medio* journalist Luz Escobar, who was broadcasting the demonstration live from Havana’s Central Park. Two women dressed in Ministry of Interior uniforms approached her and asked her to “accompany them to the corner” to which the journalist replied that she was not breaking the law. A few seconds later the transmission cut out as she was detained. The reporter was released around 7 p.m., after about four hours in custody.

483. On November 26, Cuban police reportedly entered the headquarters of the San Isidro Movement and violently evicted its members, who had been occupying the premises for 10 days to demand the release of Denis Solís, citing the risk of epidemiological contagion. According to available information, the group’s leader, Luis Manuel Otero Alcántara, and curator Anamely Ramos, were reportedly detained again for resisting police abuse.⁷⁰² After the dispersal of the protest, on November 27, a group of Cuban visual artists, theater performers, and filmmakers gathered outside the Ministry of Culture in Havana, where they called for more “dialogue” with the authorities.⁷⁰³ According to public information, the young people demanded a meeting with the Minister of Culture to repudiate what happened to the San Isidro Movement and advocate for greater respect for fundamental freedoms. A few hours later, some 30 young people were finally greeted by ministry officials. The demonstration ended in the early hours of November 28, after the protesters stated that they had succeeded in opening an “unprecedented” channel of dialogue with the government.⁷⁰⁴ “If

⁶⁹⁸ 14 y medio. November 16, 2020. [Condenado a ocho meses de prisión Denis Solís por “desacato”](#); Diario de Cuba. November 16, 2020. [Las autoridades condenan a Denis Solís a ocho meses de prisión por ‘desacato’](#); CiberCuba. November 17, 2020. [Denis Solís, el joven rapero cubano condenado a 8 meses de prisión por sus ideas políticas](#).

⁶⁹⁹ Radio Televisión Martí. November 12, 2020. [Entregan Hábeas Corpus a favor de rapero encarcelado Denis Solís](#).

⁷⁰⁰ Diario Las Américas. November 16, 2020. [Cuba: Denis Solís, a prisión por ser un artista libre](#).

⁷⁰¹ Infobae. November 14, 2020. [Detenciones arbitrarias en Cuba: las fuerzas del régimen arrestaron ilegalmente a un grupo de artistas](#); Cultura Democrática. November 14, 2020. [Ola de detenciones arbitrarias y violencia policial a artistas en Cuba](#); Periódico Cubano. November 16, 2020. [Opositores de Cuba viven fuerte oleada represiva](#).

⁷⁰² Radio Televisión Martí. November 27, 2020. [Fuerzas policiales desalojan sede del Movimiento San Isidro: Otero Alcántara y Anamely Ramos siguen detenidos \[VIDEO\]](#); El País. November 27, 2020. [La policía cubana desaloja la sede del Movimiento San Isidro y detiene a varios integrantes durante horas](#).

⁷⁰³ 24 Matins. November 28, 2020. [Exitosa movilización de artistas cubanos por libertad de expresión](#); On Cuba News. November 28, 2020. [Artistas cubanos que se manifestaron en el Ministerio de Cultura logran primeros acuerdos con el gobierno](#); Cubanet. December 1, 2020. [Al detalle: Así fue el encuentro entre artistas cubanos y Fernando Rojas en el MINCULT](#).

⁷⁰⁴ France 24. November 28, 2020. [Cuba: una inusual protesta de artistas termina tras acuerdos preliminares con el Gobierno](#).

anything, 30 people have just spoken to them honestly about what is happening,” about how “they are mistreating us, they are beating us, they are hurting us,” said Michel Matos, of the San Isidro Movement, and “they (the government) listened.”⁷⁰⁵

484. In the days and weeks following these events, the artists and activists who participated in the demonstrations, and the journalists who expressed their support, complained of prolonged harassment by the regime.⁷⁰⁶ According to the information available, several were besieged in their homes by State Security agents, who prevented them from leaving and moving outside the premises, sometimes for over 10 days. This happened, for example, to Luis Manuel Otero,⁷⁰⁷ Maykel Castillo,⁷⁰⁸ Iliana Hernández,⁷⁰⁹ Katherine Bisquet,⁷¹⁰ and Héctor Luis Valdés Cocho.⁷¹¹

485. On November 29, Cuban President Miguel Díaz-Canel stated that the protest in Havana by young artists constituted “a strategy of unconventional warfare” by the U.S. government, then presided over by Donald Trump, “to overthrow the Cuban revolution.”⁷¹²

486. The IACHR and its Office of the Special Rapporteur have also noted with concern the selective use of Decree-Law 370 on the computerization of society in Cuba to persecute and criminalize many people for critical speech, often related to COVID-19. The decree was widely criticized and rejected by Cuban civil society and specialized civil society organizations. In June, a group of Cuban journalists, artists, and activists delivered the petition “*Declaración contra el Decreto Ley 370: Ley Azote*” [“Declaration against Decree-Law 370: Scourge Law”] to the National Assembly, the Council of State, the Supreme Court, the Attorney General’s Office, and the President of the Republic, calling for Decree-Law 370 to be declared unconstitutional. The declaration stated that “aware that providing information, expressing opinions, and speaking freely are not crimes, and that unjust laws should be changed, not obeyed, we declare that, from this moment on, we refuse to pay the fines resulting from the enforcement of this law and all those that violate our human rights.”⁷¹³ In June, more than 50 non-governmental organizations and media outlets endorsed the petition.⁷¹⁴ The signatories urged members of the international community, governments, civil society, and international human rights protection organizations to demand that the Cuban government immediately end online surveillance of people expressing their opinions on social networks and other media, and end the persecution of journalists and human rights activists.

487. In a March 17 press release, the Office of the Special Rapporteur condemned the increased criminalization and harassment of journalists, activists, and artists exercising freedom of expression in Cuba, and urged the State to immediately release all those detained for exercising their rights to freedom of opinion and expression. It also reminded the State that using criminal law as a mechanism to prosecute those who express opinions, information, or criticism of government authorities or policies, or speak out on issues of public interest, has a chilling effect that limits freedom of expression.⁷¹⁵ On April 25, The IACHR and its Office of the Special Rapporteur also condemned the use of Decree-Law 370 to punish journalists and activists for reporting on or questioning government responses to COVID-19 online. They recalled that imposing penalties

⁷⁰⁵ 24 Matins. November 28, 2020. [Exitosa movilización de artistas cubanos por libertad de expresión.](#)

⁷⁰⁶ Diario de Cuba. December 10, 2020. [El grupo 27N denuncia acoso prolongado a activistas, artistas y periodistas independientes.](#)

⁷⁰⁷ Cubanet. December 2, 2020. [Luis Manuel Otero sitiado en casa de su abuela;](#)

⁷⁰⁸ CiberCuba. December 28, 2020. [Seguridad del Estado mantiene sitiada la casa del rapero Maykel Osorbo.](#)

⁷⁰⁹ CiberCuba. December 11, 2020. [Iliana Hernández: 15 días sitiada en su casa por la Seguridad del Estado.](#)

⁷¹⁰ CiberCuba. December 10, 2020. [Poeta cubana Katherine Bisquet sigue presa en su propia casa en el día de su cumpleaños.](#)

⁷¹¹ CiberCuba. December 2, 2020. [Policía cubana sitia la casa del periodista independiente Héctor Luis Valdés Cocho.](#)

⁷¹² Infobae. November 29, 2020. [Cuba califica protesta de artistas de “último intento” de EEUU “por derrocar la revolución”;](#) Clarín. November 30, 2020. [Para Cuba, la protesta de sus artistas es el “último intento” de Estados Unidos “por derrocar la revolución”.](#)

⁷¹³ Avaaz. April 19, 2020. [Declaración contra el Decreto-Ley 370: Ley Azote;](#) Diario Las Américas. April 20, 2020. [Cuba y su esfuerzo de banalizar a periodistas independientes;](#) Cubanet. April 20, 2020. [Periodistas, artistas y activistas cubanos se unen contra el Decreto-Ley 370;](#) Radio Televisión Martí. April 20, 2020. [Cubanos exigen derogación de decreto bautizado como “Ley Azote”.](#)

⁷¹⁴ IFEX. June 15, 2020. [International support for petition to declare Cuba’s Decree-Law 370 unconstitutional](#)<https://ifex.org/es/apoyo-internacional-a-la-peticion-para-declarar-inconstitucional-el-decreto-ley-370-en-cuba/>; Freedom House. June 16, 2020. [International support for the petition to declare Decree-Law 370 unconstitutional in Cuba.](#)

⁷¹⁵ IACHR. Office of the Special Rapporteur for Freedom of Expression. March 17, 2020. [Press Release R55/20. The Office of the Special Rapporteur for Freedom of Expression condemns increased criminalization and harassment of journalists, activists, and artists who exercise freedom of expression in Cuba.](#)

for critical speech or information of public interest on vague legal grounds is incompatible with international human rights obligations and the values of a democratic State.⁷¹⁶

488. The Office of the Special Rapporteur notes that health professionals have also been victims of government persecution and censorship in retaliation for their social media posts. For example, on May 20, Cuban nurse Pedro Ariel García Rodríguez reported that he had been forced to resign from the National Institute of Oncology and Radiology after refusing to delete his Facebook posts. A few days earlier, the nurse had reportedly been summoned by agents of the regime and by the deputy director of the hospital to warn him that they were monitoring his social media posts.⁷¹⁷ On May 29, physician Ramón Zamora was detained by State Security and taken to the police station known as El Anillo, where he was interrogated and threatened with the enforcement of Decree-Law 370 for “false publications against the government.” According to available information, his arrest was tied to a social media post about an outbreak of human rabies that caused the death of three people in the municipality of Mayarí.⁷¹⁸

C. Internet access and freedom of expression

489. As noted in the 2018 Special Report on Freedom of Expression in Cuba and the 2020 Country Report on the Situation of Human Rights in Cuba, if anything has changed recently in the field of freedom of expression, it has been due to the slow and gradual development of communication technologies which, despite severe restrictions, has gained particular relevance on the island. In recent years, internet use and the development of digital media have opened up spaces for the circulation of information and ideas outside official control. Thanks to these technologies, a growing number of journalists have launched digital media outlets in the past few years outside the official discourse and state control to disseminate their work and promote the exchange of information and opinions.⁷¹⁹

490. The Office of the Special Rapporteur notes that internet blackouts by the State are one of the most frequent infringements of freedom of expression. This problem became more relevant during 2020 due to the social distancing and isolation measures that forced citizens to conduct most of their daily activities virtually.

491. Throughout the year, several opposition leaders, artists, journalists, and activists have complained of the theft of their mobile data balances;⁷²⁰ the blocking of certain news sites;⁷²¹ interruptions, outages, and interference;⁷²² high fees and poor service;⁷²³ connectivity problems in certain geographical areas;⁷²⁴ and the

⁷¹⁶ Twitter account of Inter-American Commission on Human Rights (@CIDH). [April 25, 2020](#).

⁷¹⁷ Cubanet. May 21, 2020. [Expulsan a enfermero de hospital en La Habana por “contrarrevolución”](#); 14 y medio. May 22, 2020. [“Aquí tienes que estar de un lado de la cerca o del otro”](#); Radio Televisión Martí. May 21, 2020. [Enfermero cubano afirma que lo expulsaron del trabajo por decir lo que piensa \(VIDEO\)](#).

⁷¹⁸ Radio Televisión Martí. May 28, 2020. [Interrogan y hackean Facebook de médico que publicó sobre muertes por rabia en Mayarí](#); Cubanet. May 29, 2020. [Amenazan a médico que compartió información sobre brote de rabia](#); CiberCuba. May 29, 2020. [Arrestan a médico cubano que informó de muertes por rabia en Mayarí](#).

⁷¹⁹ IACHR. Special Report on the Situation of Freedom of Expression in Cuba. OEA/SER.L/V/II CIDH/RELE/INF.21/18. December 31, 2018, par. 197; IACHR. Special Report on the Situation of Freedom of Expression in Cuba. OEA/Ser.L/V/II. Doc. 2. February 3, 2020. par. 219.

⁷²⁰ Cubanet. April 21, 2020. [Denuncian complicidad de ETECSA en hackeos de cuentas de Internet](#); Herald de Cuba. April 21, 2020. [Complicidad De ETECSA En Hackeos De Cuentas De Internet](#); Periódico Cubano. April 21, 2020. [Periodista independiente Rolando Rodríguez Lobaina acusa a ETECSA de ser cómplice de hostigamiento](#); Cubanet. May 7, 2020. [Denuncian que ETECSA roba datos móviles a Tania Bruquera](#); CiberCuba. May 29, 2020. [ETECSA ofrece explicaciones tras numerosas denuncias de robo de saldo y datos](#).

⁷²¹ CiberCuba. June 2, 2020. [Gobierno cubano arreceja la censura contra CiberCuba en servidores de la isla](#); ADN Cuba. May 7, 2020. [Denuncian en Cuba bloqueo de la plataforma de peticiones Avaaz](#); 14 y Medio. December 7, 2020. [Con tecnología china y muchos recursos, el Gobierno cubano intensifica la censura en internet](#).

⁷²² CiberCuba. May 1, 2020. [José Daniel Ferrer denuncia que el régimen cubano le quitó internet: “¿Por qué le temen tanto a la información?”](#); ADN Cuba. May 1, 2020. [Régimen cubano corta acceso a internet a José Daniel Ferrer](#); CiberCuba. May 24, 2020. [ETECSA impide que Pedrito el Paketero haga sus videos en vivo](#); CiberCuba. June 30, 2020. [Quitan Internet a periodista de CiberCuba Iliana Hernández horas antes de protesta pacífica](#); CiberCuba. June 30, 2020. [Periodistas, profesores y activistas cubanos se quedan sin datos de Internet el día de la protesta pacífica](#); Radio Televisión Martí. June 30, 2020. [ETECSA corta Internet y restringe llamadas en el día de las protestas](#); ADN Cuba. July 20, 2020. [Periodista Mónica Baró denuncia que Etecsa suspendió su servicio de Internet](#); CiberCuba. July 20, 2020. [Periodistas independientes en Cuba denuncian vigilancia de la Seguridad del Estado y corte de datos móviles](#); CiberCuba. October 29, 2020. [Periodista Roberto Quiñones denuncia que el régimen cubano le bloquea Internet](#).

⁷²³ Cubanet. May 27, 2020. [“Bajen los precios de Internet”: tuitazo contra ETECSA el próximo fin de semana](#); CiberCuba. May 29, 2020. [Convocan campaña para exigir a ETECSA que baje los precios de internet](#); CiberCuba. May 30, 2020. [Cubanos inician tuitazo de 3 días para exigir a ETECSA que baje los precios de internet](#); Agenda Pública. July 9, 2020. [Cuba: más conectada y más aislada](#).

⁷²⁴ Radio Televisión Martí. May 3, 2020. [Internet desde “zonas de silencio” en Cuba, un lujo que pocos se pueden dar](#).

hacking of activists' social media accounts.⁷²⁵ According to the information obtained, this type of problem occurs especially during social demonstrations, protests, and activities organized by independent activists or regime opponents.⁷²⁶ For example, on November 29, an “intermittent blocking” of social networks and internet services was reported, allegedly in connection with the events of the previous days, including the eviction and arrests of activists occupying the San Isidro Movement headquarters in protest and the artists' demonstration outside the Ministry of Culture.⁷²⁷

492. In October, the Office of the Special Rapporteur also learned of the alleged blocking of the instant messaging service Telegram. In a statement on Twitter, the company said that users in Cuba were reporting connection problems that prevented them from using the app normally. “We are monitoring the situation but the problem is not on our end. We hope that the provider responsible for this issue can offer a prompt solution,” said the company.⁷²⁸ Cuban users reacted to the cuts through the hashtag #NiMeCallasNiMeCallo as a protest to demand the unblocking of Telegram.⁷²⁹

493. Regarding the high costs of Internet service, a report by the Regional Alliance for Free Expression and Information and the Cuban Observatory for Human Rights notes that there is a widespread consensus about the price of internet access in Cuba. According to the report, considering that the minimum monthly salary established by the Cuban government in mid-2019 is US\$16, one GB of data amounts to over 80% of the minimum wage.⁷³⁰

494. In view of the facts observed during 2020, the Office of the Special Rapporteur reminds the State of Cuba that:

495. **Journalism is the primary and principal manifestation of freedom of expression and States have a positive obligation to provide a safe working environment for the press.** The IACHR and its Office of the Special Rapporteur have indicated in their Special Report on the Situation of Freedom of Expression in Cuba that State agents are the main source of threats and attacks on the press in the country, a practice that must be dismantled and punished. The Inter-American Court has held that “it is essential that the journalists [...] enjoy the necessary protection and independence to exercise their functions comprehensively, because it is they who keep society informed, and this is an indispensable requirement to enable society to enjoy full freedom.”⁷³¹ In the context of social protests, journalists, camerapeople, photojournalists, and media workers covering the demonstrations play a fundamental role in gathering and disseminating information, including on the actions of the security forces and possible acts of violence. As the IACHR has stated, freedom of expression protects the right to record and disseminate any incident.⁷³² Therefore, the State must provide the press with the utmost protection so that they can carry out their work freely and keep society informed on matters of public interest.

496. **Social protest, which includes the rights of peaceful and unarmed assembly, association, and freedom of expression, is a fundamental tool in the defense of democracy and human rights.** The IACHR has affirmed that Cuba shows “intense intolerance of works of art that might raise questions as to the virtues of the political system or the correctness of the ruling group.” The Commission and its Office of the Special Rapporteur have continued to receive information indicating that ideological disagreement has been a motive for inhibiting artistic expressions of various kinds that are intended to be a form of protest. The IACHR

⁷²⁵ CiberCuba. May 11, 2020. [ETECSA deja sin internet a activista cubano en primer aniversario de marcha reprimida por el régimen.](#)

⁷²⁶ Radio Televisión Martí. June 30, 2020. [ETECSA corta Internet y restringe llamadas en el día de las protestas](#); CiberCuba. July 1, 2020. [Iliana Hernández reclama a ETECSA por cortes en los servicios de internet](#); IFEX. July 1, 2020. [Organizations denounce numerous arbitrary arrests, restrictions and Internet service cuts that aim to prevent demonstrations against police violence in Cuba.](#)

⁷²⁷ CiberCuba. November 29, 2020. [Internautas cubanos reportaron bloqueo intermitente de redes sociales en Cuba](#); ADN Cuba. November 29, 2020. [Jóvenes cubanos a ETECSA: “si nos censuran nos vamos a lanzar a las calles”.](#)

⁷²⁸ Infobae. October 15, 2020. [Telegram, fuera de servicio en Cuba por más de 24 horas](#); CiberCuba. October 15, 2020. [Gobierno de Cuba bloquea la app Telegram](#); Periódico Cubano. October 15, 2020. [ETECSA bloquea el acceso a Telegram desde Cuba](#); Diario de Cuba. October 15, 2020. [Numerosos usuarios reclaman a ETECSA por el bloqueo de Telegram en Cuba.](#)

⁷²⁹ CiberCuba. October 17, 2020. [Cubanos se unen contra la censura y exigen desbloqueo de Telegram y las VPN: #NiMeCallasNiMeCallo](#); CiberCuba. October 17, 2020. [Internautas reaccionan a golpe de memes contra censura de Telegram en Cuba](#); 14 y medio. October 18, 2020. [Bloqueado por segunda vez Telegram en Cuba a pesar de la ola de denuncias.](#)

⁷³⁰ Alianza Regional por la Libre Expresión and Observatorio Cubano de Derechos Humanos. October, 2020. [Informe sombra sobre la evolución de los compromisos asumidos. Examen periódico universal \(EPU\) de Cuba.](#)

⁷³¹ I/A Court H. R. [Case Ivcher Bronstein v. Peru. Merits, Reparations and Costs](#). Judgment of February 6, 2001. Serie C No. 74, par. 147-150.

⁷³² IACHR. [Protest and Human Rights](#). OEA/Ser.L/V/II. CIDH/RELE/INF.22/19. September 2019. Par. 355.

has recommended that the Cuban State put an end to harassment, including subpoenas, detentions of any duration, and judicial harassment of any person for reasons related to the exercise of their freedom of expression, freedom of association, assembly, or other related reasons. The Office of the Special Rapporteur recalls that both the Universal Declaration of Human Rights and the American Declaration of the Rights and Duties of Man, as well as Article 19 of the International Covenant on Civil and Political Rights, signed by Cuba on February 28, 2008, protect journalistic and artistic work and the defense of human rights. Thus, those who express themselves legitimately should not be subjected to pressure when carrying out their work or covering and disseminating matters of public interest.

497. **Access to the internet is a *sine qua non* condition for the effective exercise of human rights.** The Office of the Special Rapporteur recalls that in their 2011 Joint Declaration on Freedom of Expression and the Internet, the Special Rapporteurs of the UN, OSCE, IACHR, and ACHPR noted that States have the obligation “to promote universal access to the Internet. Access to the Internet is also necessary to promote respect for other rights, such as the rights to education, health care and work, the right to assembly and association, and the right to free elections.” They further recalled that “[m]andatory blocking of entire websites, IP addresses, ports, network protocols or types of uses (such as social networking) is an extreme measure—analogueous to banning a newspaper or broadcaster—which can only be justified in accordance with international standards.”⁷³³ The IACHR and its Office of the Special Rapporteur have underscored that “[i]n the current health emergency context generated by the COVID-19 pandemic, people’s access to quality Internet acquires an inevitable central role. Based on the isolation and/or social distancing measures imposed by governments at a global level and their extension over time, Internet connection emerges as the predilect tool to continue with daily tasks that previously required in-person contact, in addition to being crucial for the exercise of civil, political, economic, and cultural rights.”⁷³⁴ In this regard, the IACHR has emphasized that States must guarantee that “everyone has the broadest possible access to the Internet, and develop affirmative measures to close the digital divide facing vulnerable, lower-income groups quickly.”⁷³⁵

DOMINICA

498. The Office of the Special Rapporteur welcomes the progress made during 2020 on the electoral reform in Dominica, which could have a positive impact on freedom of expression. This Office also observes that despite the right to freedom of expression being constitutionally guaranteed in Dominica, defamation continues to be a crime punished with prison or fines. According to the organization Freedom House, complaints for defamation are filed against media workers, something that has the potential to lead to self-censorship.

A. Legal reforms

⁷³³ The United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples’ Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information. [Joint Declaration on Freedom of Expression and the Internet](#). June 1, 2011.

⁷³⁴ IACHR. Office of the Special Rapporteur for Freedom of Expression. August 31, 2020. [Press release R206/20. States of the Region must Accelerate Universal Internet Access Policies during the COVID-19 Pandemic and Adopt Differentiated Measures to Incorporate Groups in Vulnerable Situations](#).

⁷³⁵ IACHR. Resolution No. 1/20. [Pandemic and Human Rights in the Americas](#). April 10, 2020. Par. 31; IACHR. RIRCU Practical Guides to COVID-19 02. [How to ensure access to the Right to Education for Children and Adolescents during the COVID-19 Pandemic?](#)

499. In 2019, Dominica's government requested assistance from the CARICOM Secretariat (CARICOM), the Commonwealth Secretariat (COMSEC), and the General Secretariat of the Organization of American States (GS/OAS) to conduct an electoral reform, and in August, they carried out a Joint Special Mission to the country. As documented by the Office of the Special Rapporteur in its last annual report, the three organizations issued a series of recommendations and highlighted citizens' lack of information on the electoral form and the right to vote, stating that "not all persons had received sufficient, accurate information to allow them to understand the issues and to form considered opinions," underscoring the need to improve and level the playing field for all parties in their access to public and private media.⁷³⁶

500. On February 10, 2020, at the opening of the sessions of Parliament, Dominica President Charles Savarin called on the members of the Parliament's different parties and on society as a whole to set aside differences and approach the debate on electoral reform without political animosity, quarrels, or hateful speech, as it was "a continuing process and not a short-term once and for all exercise." In this regard, the President underscored the need to encourage confidence in the institutions of the State and the mechanisms they provide for resolving differences.⁷³⁷

501. The opposition United Workers Party (UWP) recommended the "urgent" implementation of reforms in key aspects that will "save Dominica from the pitfalls of a defective electoral system."⁷³⁸ Among other reforms aimed at "free and fair elections," opposition leader Lennox Linton suggested fair media access for the opposition in terms of news coverage of all state-owned media, a campaign finance reform, an accurate register of voters and voter ID cards.⁷³⁹

502. Caribbean jurist Sir Charles Michael Dennis Byron was chosen to perform the service of sole commissioner for electoral reform in Dominica. In March, Prime Minister Roosevelt Skerrit said that the first visit to Dominica would be an information-gathering exercise, and that he would be exposed to all the relevant stakeholders, including the media.⁷⁴⁰ In August, it was announced that the cabinet had approved the engagement of the Caribbean jurist, who would begin serving in September as a sole commissioner to advance efforts towards electoral reform.⁷⁴¹ "Electoral reform for this government is important; it is important for the country and we are hoping that once Sir Dennis would have submitted his report, then we can go to the Parliament to effect the necessary changes as he will recommend to the country to move forward," the Prime Minister said.⁷⁴² Also, in October, the Prime Minister announced he had invited both the Organization of American States (OAS) and the Commonwealth, asking that they provide two experts to work alongside eminent Caribbean jurist Sir Dennis Byron, to ensure that all international best practices with electoral reform are met.⁷⁴³

B. Subsequent liabilities

503. In November, Parry Bellot, the former press secretary of the government of Dame Mary Eugenia Charles and currently a businessman and the owner of *Link Magazine*, announced he would sue the leader of the Dominica Freedom Party (DFP), Kent Vital, and the party's president, Johnson Boston, over a series of statements made in which they supposedly attacked his personal and political integrity by saying "that I'm a bourgeois, that I don't care for poor people."⁷⁴⁴ According to the information available, during a DFP radio show, one of the political leaders asked on air if it was true that he received \$3,500 a month from Prime Minister Roosevelt Serrit to spread propaganda. "It is my reputation that they are defaming. All I have at my

⁷³⁶ CARICOM – Commonwealth – OAS Special Mission to Dominica. August 6 - 9, 2019. [Report of the Special Mission](#).

⁷³⁷ Government of the Commonwealth of Dominica. Office of the President. February 13, 2020. [Address to Parliament, Monday 10th February 2020](#); Dominican Vibes. February 10, 2020. [President's Address to New Parliament Session: Focus On What Unites Us](#); Dominican News Online. February 10, 2020. [President calls for electoral reform with protection of voters' rights and clean list](#).

⁷³⁸ Dominican News Online. January 27, 2020. [The UWP has recommended "urgent" implementation of electoral reforms in key aspects](#).

⁷³⁹ Dominican News Online. January 27, 2020. [The UWP has recommended "urgent" implementation of electoral reforms in key aspects](#).

⁷⁴⁰ Dominica News Online. March 4, 2020. [Caribbean jurist chosen to undertake electoral reform in Dominica to make first visit](#).

⁷⁴¹ Dominica News Online. August 31, 2020. [Dominica Cabinet approves appointment of Sir Dennis Byron as sole electoral reform commissioner](#); Winn FM. September 1, 2020. [Dominica Cabinet Approves Appointment of Sir Dennis Byron As Sole Electoral Reform Commissioner](#).

⁷⁴² Times Caribbean. September 1, 2020. [Dominica Cabinet approves appointment of Sir Denis Byron as sole electoral reform commissioner](#).

⁷⁴³ Dominica News Online. October 7, 2020. [OAS and Commonwealth experts invited to assist with electoral reform – PM Skerrit](#).

⁷⁴⁴ Kairi FM. November 20, 2020. [Local businessman decides to sue two leading members of the Dominica Freedom Party](#); Dominican Vibes. November 20, 2020. [Parry Bellot Announces Decision to Sue Two Members of DFP for Defamation](#).

age is my reputation,” Parry Ballot said, adding: “I don’t want people thinking all along I have been getting money from Mr. Skerrit. I have worked hard, very very hard for Dominica. I have always been a nationalist. Very often doing things for free. (...) we cannot have politicians just say things against people they think are working against them. That has to stop.”⁷⁴⁵

504. Likewise, in July, the former president of the Concerned Citizens Movement (CCM), Loftus Durand, took legal action against two CCM members for defamation of character. According to Loftus Durand, two CCM members defamed his name in the public by accusing him of not being accountable and transparent as it relates to CCM funds. Initially, they were both sent letters asking them to retract their statements, but when the two members refused, the matter was brought before the courts.⁷⁴⁶

505. Based on the foregoing, this Office calls on the State of Dominica to take special note that:

506. **Freedom of expression is linked directly to political rights and their exercise, with both kinds of rights reciprocally strengthening each other.** In order for citizens to be able to make decisions when casting votes, the greatest possible circulation of ideas, opinions, and information on the candidates, their parties, and their platforms is crucial.⁷⁴⁷ It is necessary for everyone to be able to question and investigate the abilities and suitability of the candidates, disputing and confronting their proposals, ideas and opinions so that the electorate can form an opinion on how to vote.⁷⁴⁸ As the IACHR has noted, free speech and political debate are essential for the consolidation of democracy in societies, which is why they are of compelling social.⁷⁴⁹

507. **The use of criminal mechanisms to punish speech on matters of public interest, especially speech related to public officials, is incompatible with inter-American standards.** Principle 11 of the Declaration of Principles on Freedom of Expression of the IACHR establishes: “Public officials are subject to greater scrutiny by society. Laws that penalize offensive expressions directed at public officials [...] restrict freedom of expression and the right to information.” Likewise, the IACHR and the Inter-American Court have repeatedly indicated that States have more limited scope to impose restrictions on the right to freedom of expression “whenever dealing with expressions concerning the State, matters of public interest, public officials in the performance of their duties, candidates for public office, private citizens involved voluntarily in public affairs, or political speech and debate.”⁷⁵⁰ Such individual subject themselves to greater public scrutiny and criticism, in view of the fact that the activities they engage in are in the public interest and because they have voluntarily exposed themselves to stricter scrutiny and have enormous capacity to challenge the information through their convening power.⁷⁵¹ In the “Tenth Anniversary Joint Declaration: Ten key challenges to freedom of expression in the next decade,” of 2010, the Special Rapporteurs of the UN, IACHR, OSCE, and ACHPR stated that “[t]he retention of antiquated legal rules – such as sedition laws or rules against publishing false news – which penalize criticism of government” constitute illegitimate “mechanisms of government control over the media.”⁷⁵²

⁷⁴⁵ Dominica News Online. 19 de noviembre de 2020. [DFP not concerned about Parry Bellot's defamation suit](#); Kairi FM. 20 de noviembre de 2020. [Local businessman decides to sue two leading members of the Dominica Freedom Party](#); Dominican Vibes. 20 de noviembre de 2020. [Parry Bellot Announces Decision to Sue Two Members of DFP for Defamation](#).

⁷⁴⁶ Dominica News Online. July 17, 2020. [Former CCM president takes legal action for defamation of character against two CCM members](#); Loop News Caribbean. July 19, 2020. [Ex CCM President denies misappropriating funds; sues accusers](#).

⁷⁴⁷ ⁷⁴⁷ IACHR. [Annual Report 2005. Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter VI (Freedom of Expression and the Electoral Process: The Case of Opinion Polls and Exit Polls). OEA/Ser.L/V/II.124 Doc. 77. February 27, 2006. Par. 2

⁷⁴⁸ ⁷⁴⁸ I/A Court H. R. [Case of Ricardo Canese v. Paraguay: Merits, Reparations and Costs](#). Judgment of August 31, 2004. Serie C No. 111. Par. 90..

⁷⁴⁹ IACHR. Arguments before the Inter-American Court in the case Canese v. Paraguay. Transcribed at: I/A Court H.R., [Case of Ricardo Canese v. Paraguay](#).

⁷⁵⁰ IACHR. [Annual Report 1994](#). OEA/Ser. L/V/II.88. Doc. 9 rev. February 17, 1995; IACHR. Office of the Special Rapporteur for Freedom of Expression. [Annual Report 2009](#). OEA/Ser.L/V/II. Doc. 51. December 30, 2009. Par. 100; I/A Court H. R., [Case Ivcher Bronstein v. Peru. Merits, Reparations and Costs](#). Judgment of February 6, 2001. Serie C No. 74; I/A Court H. R. [Case of Herrera Ulloa v. Costa Rica](#). Judgment of July 2, 2004. Serie C No. 107; I/A Court H. R. [Case of Ricardo Canese v. Paraguay](#). Judgment of August 31, 2004. Serie C No. 111; I/A Court H. R. [Case of Palamara Iribarne v. Chile](#). Judgment of November 22, 2005. Serie C No. 135; I/A Court H. R. [Case of Eduardo Kimel v. Argentina](#). Judgment of May 2, 2008. Serie C No. 177.

⁷⁵¹ IACHR. Office of the Special Rapporteur for Freedom of Expression. [Annual Report 2009](#). OEA/Ser.L/V/II. Doc. 51. December 30, 2009. Par. 40.

⁷⁵² The United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of

ECUADOR

508. The Office of the Special Rapporteur noted with concern the increase in aggressions and attacks against the press, in a year in which more than 800 journalists were victims of some type of aggression. Attacks on the press range from death threats to bomb attacks. At least two explosive devices were detonated: one at a journalist's home and the other at a television channel.

509. The COVID-19 pandemic had negative effects on the exercise of freedom of expression, such as access to public information. The country, which was one of the most affected especially at the beginning of the year, put journalists in a vulnerable situation not only due to the dismissals registered in different media but also due to the number of journalists infected. In fact, at one point, the country led the region with the highest number of journalists killed by the virus. Additionally, the pandemic deepened the economic crisis of the

Expression and the African Commission on Human and Peoples' Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information. February 3, 2010. [Tenth Anniversary Joint Declaration: Ten key challenges to freedom of expression in the next decade.](#)

media that had been affected since the last administration, which with fines and sanctions was affecting independent media.

510. The Office of the Special Rapporteur received with concern information on the little progress in the prosecution of the murder of the team from the newspaper *El Comercio* that took place on the border between Ecuador and Colombia. Additionally, the Office of the Special Rapporteur has noted the little progress in the development of the Inter-Institutional Committee for the Protection of Journalists that was created after the murder.

511. This Office also noted with concern government decisions such as suspending the *Pichincha Universal* radio license. This Office was also aware of important decisions such as the legal reform that approved the change in the Organic Law of Communication that established communication as a human right and not as a public service. Likewise, this Office learned of the ruling against an aggressor of a journalist, as well as the declaration of unconstitutionality of a fine imposed on a media outlet.

A. Progress

512. On July 24, José Manuel Guacho Anilema was sentenced to four months and 18 days in prison, accused of assaulting journalist Freddy Paredes, under the crime of injury with incapacity of 31 to 90 days.⁷⁵³ Paredes was attacked on October 10, 2019 when he was leaving the Agora of the House of Ecuadorian Culture, when Guacho Anilema brutally beat him with a stone that resulted in a broken collarbone and a concussion with an open wound to the head.⁷⁵⁴ Guacho Anilema was a fugitive from the attack until March 5, 2020, when he was captured. In addition to his prison sentence, he was sentenced to pay a fine of four unified basic salaries (US \$ 1,600) and a comprehensive reparation of US\$ 1,900.⁷⁵⁵

513. On September 2, the Constitutional Court of Ecuador declared unconstitutional a 2012 ruling by the Contentious Electoral Tribunal (TCE) in which it fined *Vistazo* magazine US\$80 thousand dollars for an editorial published in 2011. The Constitutional Court also ordered the TCE to apologize to the magazine.⁷⁵⁶ On May 6, 2011, *Vistazo* magazine published the editorial 'Un NO Rotundo' where it established its position on the Popular Consultation and Referendum that took place on May 7 of that year, promoted by then-President Rafael Correa. In the editorial, the magazine indicated, according to its concept, why one should vote "No" in some of the proposals.⁷⁵⁷ In June and August 2011, five complaints were filed against Editores Nacionales S.A. ENSA (which publishes *Vistazo* magazine) which were dismissed as inadmissible on December 12, 2011 by a judge of the TCE. After an appeal, on September 26, 2012, the TCE ruled again, this time against the magazine, considering that the editorial constituted "electoral propaganda" and violated the electoral silence of 48 hours prior to the elections. On October 11, 2012 ENSA filed an extraordinary protection action against the TCE ruling. On July 4, 2013, the Admission Chamber of the Constitutional Court admitted the action ordering that the respective draw be carried out for the merit. However, *Vistazo's* file was frozen for six years until the new Plenary of the Constitutional Court was inaugurated on February 5, 2019. On March 19, 2019, according to the draw made by the Court, the merit was assigned to the judge Teresa Nuques Martínez, who called for a hearing on the case through an order of June 20, 2019.⁷⁵⁸ Finally, in the recent decision of September 2, it annulled the ruling of the Court of September 26, 2012 and ordered the TCE to offer a public apology through a poster located in a visible place at the entrance of the main building of the Court and of a banner published on the Tribunal's website, which must remain on for 30 consecutive days.⁷⁵⁹ In this decision, the

⁷⁵³ La República. July 24, 2020. [Cuatro meses de prisión para el agresor de Freddy Paredes](#); El Universo. July 24, 2020. [A cuatro meses y 18 días sentencian a agresor de periodista Freddy Paredes durante las protestas de octubre del 2019](#); Vistazo. July 25, 2020. [Sentencian a cuatros meses y 18 días de prisión a agresor de periodista Freddy Paredes](#).

⁷⁵⁴ IACHR. [Annual Report 2019. Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). OEA/Ser.L/V/II. Doc. 5. February 24, 2020. Par. 500; Fundamedios. (n.d.). [Actualización: Cuatro meses de prisión para el agresor del periodista Freddy Paredes](#).

⁷⁵⁵ El Telégrafo. July 24, 2020. [Agresor de Freddy Paredes fue sentenciado a prisión](#); La República. July 24, 2020. [Cuatro meses de prisión para el agresor de Freddy Paredes](#); El Universo. July 24, 2020. [A cuatro meses y 18 días sentencian a agresor de periodista Freddy Paredes durante las protestas de octubre del 2019](#).

⁷⁵⁶ Corte Constitucional de Ecuador. September 2, 2020. [Sentencia No. 1651-12-EP/20](#); El Universo. September 9, 2020. [Corte Constitucional anuló proceso contra Vistazo por editorial que pedía votar No en consulta popular de 2011](#).

⁷⁵⁷ Fundamedios. September 28, 2020. [ESPECIAL 2-S / Una sentencia histórica para la Libertad de Expresión](#); Reporters Without Borders (RSF). October 1, 2012. [Magazine fined 80,000 dollars for "electioneering" before referendum](#).

⁷⁵⁸ Corte Constitucional de Ecuador. September 2, 2020. [Sentencia No. 1651-12-EP/20](#); Vistazo. September 9, 2020. [Corte Constitucional falla a favor de Revista Vistazo](#); Fundamedios. September 28, 2020. [ESPECIAL 2-S / Una sentencia histórica para la Libertad de Expresión](#).

⁷⁵⁹ Corte Constitucional de Ecuador. September 2, 2020. [Sentencia No. 1651-12-EP/20](#).

Constitutional Court determined that the TCE ruling violates freedom of expression and highlights its importance, especially during electoral processes,⁷⁶⁰ for which it ordered the Court, through the CNE, "within a period of 6 months, to implement a training program to its members on the protection of freedom of expression, emphasizing the validity of this right in electoral times and contexts".⁷⁶¹ On September 22, the TCE published its public apology for the violations caused to ENSA.⁷⁶²

B. Attacks, threats, and intimidation against journalists and the media

514. The Office of the Special Rapporteur has viewed with concern how Ecuador has had a violent year against the press with attacks ranging from threats to the manufacture of bombs. According to available information, as of December 15, 954 media outlets, journalists, activists, or citizens were attacked. Of this number, 863 were journalists, 36 media, and 6 photojournalists.⁷⁶³

515. Thus, for example, at dawn on February 8, an explosive device exploded in the home of journalist Víctor Aguirre, in the city of Naranjal, Guayas province in the south of the country. Although Aguirre and his pregnant wife were at home, neither was injured. Aguirre covers politics for *VA Televisión*, a Facebook page-based outlet he founded and runs.⁷⁶⁴ On February 10, the mayor of Naranjal, Luigi Rivera, in a speech uploaded to his Facebook page, attacked *VA Televisión* and claimed that this and other media were "corrupt media that try to misinform the public" due to their coverage of the protests against a public housing project that, according to critics, is being built in an ecologically sensitive area of Naranjal.⁷⁶⁵ Already in December 2019, the journalist had denounced a threat from Rivera after publishing an article in October of that year and had denounced other activities that he considered suspicious outside his home, like an attempted robbery. The article allegedly reported a meeting between the mayor and a group of protesters. That same day, the journalist denounced that the mayor and his brother had put him in a car. Rivera threatened him and tried to physically attack him. Although the mayor's brother offered him an apology, he would have told him to take down the content of the site because "something bad" could happen to him".⁷⁶⁶

516. Also in Naranjal, Andrés Mendoza, journalist and general manager of the Facebook channel *Judio TC*, reported receiving death threats. According to the information available, on February 19 two individuals went to the house of the communicator's parents with the alleged intention of killing him. Mendoza connects the threat to his work covering smuggling activities in the city.⁷⁶⁷

517. On April 28, journalist Henry Córdova Correa, news presenter for the *UNITV* television channel and news videos on his Facebook channel, was allegedly attacked by a relative in retaliation for his journalistic work in which he criticized the mayor of Quinindé, where the communicator resides. According to the information available, that day he and his wife were walking down a city street when two brothers-in-law began to yell and insult him for one of his videos, although they did not specify which one. Then one of them hit his wife with a broomstick, and someone threw their motorcycle helmet at Cordova Correa who hit his head and ankle on cobblestones. The journalist suffered a broken leg and had to be transferred to Quito to be able to perform the necessary surgery. Córdova Correa filed the complaint with the Prosecutor's Office, but there were no arrests. One of his brothers-in-law would be close to the mayor and the journalist believes that the attack was caused by a video in which he had criticized the mayor's response to the coronavirus crisis.⁷⁶⁸

⁷⁶⁰ La República. September 9, 2020. [Corte Constitucional obliga al Contencioso Electoral a pedir disculpas a Vistazo](#).

⁷⁶¹ ⁷⁶¹ Corte Constitucional de Ecuador. September 2, 2020. [Sentencia No. 1651-12-EP/20](#).

⁷⁶² Tribunal Contencioso Electoral del Ecuador. Twitter account (@TCE_Ecuador). [September 22, 2020](#); Vistazo. September 23, 2020. [Tribunal Contencioso Electoral pide disculpas públicas a Revista Vistazo](#); El Universo. September 23, 2020. [TCE se disculpa con revista Vistazo y reconoce vulneraciones a la libertad de expresión](#).

⁷⁶³ Fundamedios. December 22, 2020. [Fundamedios Ecuador 2020: LA PANDEMIA MARCÓ EL RITMO DEL TRABAJO PERIODÍSTICO](#), P. 7.

⁷⁶⁴ Committee to Protect Journalists (CPJ). February 12, 2020. [Explosive device detonated at home of journalist in Ecuador](#)<https://cpj.org/es/2020/02/estalla-artefacto-explosivo-en-la-vivienda-de-peri/>; Fundamedios. (n.d.). [Periodista sufre atentado con explosivo que después se replica en contra de un asambleísta y un abogado](#).

⁷⁶⁵ Committee to Protect Journalists (CPJ). February 12, 2020. [Explosive device detonated at home of journalist in Ecuador](#).

⁷⁶⁶ Fundamedios. January 8, 2020. [Periodista denuncia amenazas de un alcalde](#).

⁷⁶⁷ Committee to Protect Journalists (CPJ). February 24, 2020. [Ecuadorian journalist Andrés Mendoza receives death threat](#)<https://cpj.org/es/2020/02/el-periodista-ecuadoriano-andres-mendoza-recibe-am/>; Fundamedios. (n.d.). [Investigador en Naranjal fue amenazado de muerte](#).

⁷⁶⁸ Committee to Protect Journalists (CPJ). June 3, 2020. [Journalist in Ecuador attacked by relative with alleged ties to local government after critical COVID-19 coverage](#)<https://cpj.org/es/2020/06/periodista-ecuadoriano-que-critica-la-respuesta-al-covid-19-es-agredido->

518. In the early morning of May 31, an explosive device exploded at the entrance to the *Teleamazonas* channel in Guayaquil. No one was injured. According to available information, channel executives believe that the attack could be related to a series of reports that would account for alleged cases of corruption in the purchase of medical supplies for the management of the coronavirus pandemic.⁷⁶⁹ Regarding this case, on July 10, seven people suspected of carrying out the attack were arrested. According to the Minister of Government, three of the people have a criminal record and one person is a foreigner. She also reported that the attack was planned from the Guayaquil jail.⁷⁷⁰ The Minister added that the causes of the attack and who hired the men for the attack are still unknown.⁷⁷¹ The Ecuadorian Prosecutor's Office tried six people for the alleged crime of damage to the property of others with the use of explosives. A judge of Criminal Guarantees ordered pre-trial detention for five of them on July 13. For the sixth person, he issued alternative measures such as a ban on leaving the country and a weekly presentation before the authorities.⁷⁷² In December, three of these people were sentenced to 3 years and 4 months in prison. The judge also ordered them to pay a fine of ten unified basic salaries (US\$4,000 dollars) and US\$1,800 dollars as reparation to the channel. On the other three people, the judge dismissed one of them, and the Prosecutor's Office issued an abstaining opinion on the other two, unable to determine their participation in the attack.⁷⁷³

519. During a report, journalist Henry Dueñas, from *Ecuavisa*, was attacked by a group of women in the city of Guayaquil on July 14. According to available information, the journalist and two cameramen went to an area of the city where its inhabitants complained that the place had become an area for prostitution. Before a first approach and when noticing the rejection of some women, the reporters decided to enter the place with hidden cameras, but after almost 40 minutes they were discovered. When trying to leave the place, a vehicle with a man and three women surrounded them, and despite the fact that the journalist tried to intercede and explain his work, the insults and beatings began. At one point it would have been 30 women who attacked him. The women allegedly dragged him to a sidewalk where they beat him and one of them broke his nose. The journalist filed the complaint with the Prosecutor's Office on July 15.⁷⁷⁴

520. Cartoonist Xavier Bonilla 'Bonil' was threatened by Jacobo Bucaram Pulley, son of former President Abdalá Bucaram, on August 6 in response to a work by the cartoonist⁷⁷⁵. Bucaram Pulley is a fugitive from justice for being involved in possible acts of corruption in the purchase and sale of medical supplies for hospitals in Guayaquil.⁷⁷⁶ That August 6, Bonilla published a cartoon in the newspaper *El Universo* titled "El Huyecaminos" in which he referred to the case and which he also posted on his Twitter account with the message "Where is Jacobo?" The son of the former president responded through that social network with insults and wrote "God save you and protect you, and hope I don't find you because as a man you are going to have to defend yourself damn son of a bitch (sic)". Although the tweet was deleted, there are screenshots.⁷⁷⁷ The Office of the Special Rapporteur notes with concern that other types of harassment and violence have also occurred in this case, for which it considers that this threat should be responded to seriously. Thus, for example, the Fundamedios organization denounced the cyberbullying of the journalist Dayanna Monroy of

[por-familiar-presuntamente-vinculado-con-funcionarios-locales/](#); La Hora. May 13, 2020. [Periodista Henry Córdova se recupera luego de sufrir agresión.](#)

⁷⁶⁹ El Universo. May 31, 2020. [Atentado con bomba se registró esta madrugada en exteriores de Teleamazonas, en Guayaquil](#); Committee to Protect Journalists (CPJ). June 3, 2020. [Teleamazonas broadcaster attacked with dynamite in Ecuador](#)<https://cpj.org/es/2020/06/cometen-atentado-dinamitero-contra-canal-televisivo-teleamazonas-en-ecuador/>; Última Hora Ecuador. Twitter account (@ultimahoraecua1). [May 31, 2020](#).

⁷⁷⁰ El Comercio. July 10, 2020. [Policía captura a siete sospechosos del atentado a Teleamazonas](#); La Hora/EFE. July 10, 2020. [Siete detenidos por atentado a Teleamazonas: se habría gestado en la cárcel de Guayaquil.](#)

⁷⁷¹ El Universo. July 11, 2020. [Desde Penitenciaría se dio orden de poner bomba en Teleamazonas por \\$2000.](#)

⁷⁷² Fiscalía General del Estado. July 13, 2020. [Caso Teleamazonas: Fiscalía procesó a 6 personas por daño a bien ajeno con uso de explosivos](#); El Comercio. July 13, 2020. [Juez dicta prisión preventiva contra cinco de los seis detenidos por el atentado a Teleamazonas.](#)

⁷⁷³ El Universo. December 8, 2020. [Condenan a 3 años y 4 meses de prisión a implicados en el atentado contra la sede del canal Teleamazonas.](#)

⁷⁷⁴ Fundamedios. July 22, 2020. [Periodista de Ecuavisa fue agredido por un grupo de mujeres mientras realizaba un reportaje.](#)

⁷⁷⁵ Fundamedios, August 9, 2020. [FUNDAMEDIOS insta a las autoridades a proteger a Bonil frente a las amenazas de un prófugo acusado de hechos delictivos](#); Committee to Protect Journalists (CPJ). August 13, 2020. [Cartoonist Xavier 'Bonil' Bonilla threatened by son of former Ecuadorian president](#)<https://cpj.org/es/2020/08/el-caricaturista-xavier-bonil-bonilla-es-amenazado-por-el-hijo-de-un-expresidente-ecuatoriano/>; El Universo. August 10, 2020. [Organismos alertan sobre amenaza a Xavier Bonilla, caricaturista de diario EL UNIVERSO.](#)

⁷⁷⁶ El Comercio. August 5, 2020. [Juez dicta nueva orden de prisión preventiva en contra de Jacobo Bucaram Pulley](#); El Comercio. August 8, 2020. [Bucaram reacciona tras la muerte de ciudadano israelí: se comunicó con uno de los extranjeros que estaba detenido.](#)

⁷⁷⁷ Xavier Bonilla. Twitter account (@bonilcaricatura). [August 6, 2020](#); Fundamedios, August 9, 2020. [FUNDAMEDIOS insta a las autoridades a proteger a Bonil frente a las amenazas de un prófugo acusado de hechos delictivos.](#)

the *Teleamazonas* channel and who has investigated this corruption scandal. The attacks would be driven by Jacobo Bucaram.⁷⁷⁸ Likewise, one of the foreign citizens who denounced Bucaram Bulley was assassinated on August 8 inside the Litoral Penitentiary. The other foreign national who also complained was injured in this attack.⁷⁷⁹

521. The journalist Gonzalo Rubén Piña Burneo was allegedly the victim of verbal and physical attacks on August 29 at the Reina del Cisne stadium in Loja by the public relations officer of the Provincial Sports Federation, Roberto Castro. The aggression was motivated by an investigation broadcasted on the *Radio Zapotillo* program "Deportivísimo" on the functions of the public relations officer. According to the publication, Castro reportedly did not comply with teleworking, and it was questioned that during 2020 he was granted two months and three weeks of leave (1 month without pay, 1 month of vacation, and 3 weeks for other reasons such as illness or domestic calamity). The official allegedly took the cell phone from a journalist to erase evidence of the attack and then returned the device. The Núcleo de Loja Circle of Sports Journalists of Ecuador expressed its rejection of the physical and verbal aggression suffered by one of its members.⁷⁸⁰

522. The Office of the Special Rapporteur draws attention to the case of journalist Dayanna Monroy. In addition to the cyberbullying of which she would be a victim -previously mentioned- this Office has learned of several occasions in which the journalist was threatened and/or intimidated by her journalistic work. Thus, for example, on July 14, Daniel Salcedo's lawyer, accused of being involved in a corruption scheme in hospitals in the country, accused the journalist of lying in several reports and assured that she would have to "answer for everything"⁷⁸¹. In October, new threats against Monroy were known through social networks allegedly promoted by former President Abdalá Bucaram. This time it would be caused by a series of reports published by the journalist on the alleged irregular marketing of medical supplies for a hospital of the Ecuadorian Institute of Social Security in Guayaquil. A friend of the Bucaram family, Dalo Bucaram, who is currently a fugitive from Ecuadorian justice, is involved in the events. In a tweet that was later deleted, the former president would have written "We will present criminal charges against the Monroy rat of *teleamazona*, who, outraged by the ruling of the national north, launches false accusations against my son. This cheap slut will pay for this, scoundrel cheap slut".⁷⁸² On November 17 and 18, again after a publication by the journalist Monroy, she received two verbal attacks from former President Abdalá Bucaram. On this occasion it had as its cause an article that would account for some irregular requests made by the inmates of Prison 4 and that would involve Jacobo Bucaram Pulley, son of the former president, imprisoned in that place for a case of organized crime.⁷⁸³

523. Also, at the end of November, the journalist Wilson Cabrera, correspondent for *Teleamazonas* in Morona Santiago and director of the journalistic platforms *Conectados y Verificado*, was reportedly threatened by Iván Francisco Rivadeneira Torres, who is the National Police Commissioner of the canton Santiago, city of Méndez, in Morona Santiago. Through six voice notes via WhatsApp, the official warned him that he was going to file legal actions after the journalist made comments on the social network Facebook about alleged abuses by the official. In his voice messages, the Commissioner reminded him that he is the authority and deserved

⁷⁷⁸ Fundamedios, August 9, 2020. [FUNDAMEDIOS insta a las autoridades a proteger a Bonil frente a las amenazas de un prófugo acusado de hechos delictivos](#); Committee to Protect Journalists (CPJ). August 13, 2020. [Cartoonist Xavier 'Bonil' Bonilla threatened by son of former Ecuadorian president](#).

⁷⁷⁹ Fundamedios, August 9, 2020. [FUNDAMEDIOS insta a las autoridades a proteger a Bonil frente a las amenazas de un prófugo acusado de hechos delictivos](#); Committee to Protect Journalists (CPJ). August 13, 2020. [Cartoonist Xavier 'Bonil' Bonilla threatened by son of former Ecuadorian president,https://cpi.org/es/2020/08/el-caricaturista-xavier-bonil-bonilla-es-amenazado-por-el-hijo-de-un-expresidente-ecuatoriano/](https://cpi.org/es/2020/08/el-caricaturista-xavier-bonil-bonilla-es-amenazado-por-el-hijo-de-un-expresidente-ecuatoriano/).

⁷⁸⁰ Fundamedios. September 1, 2020. [Periodista lojano fue agredido por un trabajador de la Federación Deportiva](#); Crónica. September 1, 2020. [Periodista deportivo agredido al interior del estadio Reina del Cisne](#).

⁷⁸¹ Fundamedios. July 16, 2020. [Abogada de acusado por actos de corrupción amenaza a reportera de Teleamazonas](#).

⁷⁸² Fundamedios. October 16, 2020. [La periodista Dayanna Monroy fue amenazada por Abdalá Bucaram](#); Ecuador en vivo. October 16, 2020. [Abdalá Bucaram insulta a periodista y amenaza con demandarla](#); Ecuador Transparente. October 17, 2020. [Abdalá Bucaram insulta y amenaza a periodista Dayanna Monroy en Twitter](#).

⁷⁸³ Voces del Sur. November 18, 2020. [Periodista ecuatoriana es atacada nuevamente por Expresidente Abdalá Bucaram](#); El Universo. November 19, 2020. [Fundamedios respalda a la periodista que reveló los inusuales pedidos en cárcel 4 de Quito](#).

respect. In subsequent statements, the official indicated that he would not file any legal action, that his messages were made to express his position.⁷⁸⁴

524. On December 8, the journalist Franklin Soria, from *Prensa Minera*, filed a complaint with the Imbabura Prosecutor's Office for physical and verbal attacks against native citizens of Buenos Aires, a parish of the Urcuquí canton (Imbabura). According to available information, the journalist was attacked while covering a sit-in in which they demanded that the Prosecutor's Office not proceed with sanctions against several people accused of illegal mining. The journalist reported that it is not the first time he has received attacks, as he said, 15 days before these events, he and his father received calls to "stop meddling in what doesn't concern you" after having published a report on illegal mining.⁷⁸⁵

525. On December 13, two sticks of dynamite were found on the balcony of the home of journalist Mario Pinto, director of the digital medium *MPNoticias*, in the city of Machala, El Oro province. The device did not explode.⁷⁸⁶

C. Censorship

526. On January 3, the media in the city of Macas, in the province of Morona Santiago (Ecuadorian Amazon), were prevented from covering the election of Mónica Heredia as the new president of the Sports Federation of that territory by an order of the delegate of the Provincial Federation of Morona Santiago, Harry Yumbla. The election was reportedly full of scandals and would have been held completely behind closed doors.⁷⁸⁷

527. In February, the journalistic portal *4Pelagatos* reported on a complaint against them by a person who works as a technician for the Directorate of Synthesis and Alerts of the Presidency of the Republic for allegedly using an image owned by the Presidency. According to the media, it would be a legal technique to use European copyright laws in order to take down critiquing content, in a process in which there were reportedly also several irregularities, such as, for example, that this person posed as a worker of the Embassy of Ecuador in Spain.⁷⁸⁸ The General Secretariat for Communication of the Presidency issued a statement on February 4 in which it expressed its "absolute respect" for the freedom and expression of citizens and the media and added that it does not carry out censorship actions. It added that it does have copyright over the images and information it generates, and that it "safeguards the proper use of such content, without impairing the right of the media to inform." It regretted that the fact had been "misrepresented by an official who has been immediately separated from the institution".⁷⁸⁹ However, on February 25, *the La Historia* portal reportedly received a notification from Twitter also for allegedly violating copyright after publishing a video made by the Presidency of the reopening of a hotel. The claim would have been initiated by the same official who filed the case against *4Pelagatos*.⁷⁹⁰

528. Likewise, on July 23, the portal *La Historia* reported on a complaint filed by the company Lomart Group PLC - based in Glasgow (United Kingdom) - for five articles published by the portal. The notification has to do with an alleged copyright violation for using photos of the Presidency of the Republic and the General Secretariat of Communication (Segcom). The reports that they were trying to take down⁷⁹¹ had to do with President Lenín Moreno, his family, other politicians, as well as alleged cases of corruption in hospitals. According to available information, on July 24, the portal received another notification reiterating the need to remove the notes, adding an additional one, in which the portal denounces this alleged attempt at censorship.⁷⁹²

⁷⁸⁴ Fundamedios. November 30, 2020. [Comisario de Policía envía a periodista mensajes amenazantes por Whatsapp.](#)

⁷⁸⁵ Fundamedios. December 9, 2020. [Fundamedios exige protección para periodista agredido por grupos de minería ilegal en Imbabura;](#) El Telégrafo. December 9, 2020. [Periodista de Prensa Minera fue agredido por grupos antimineros de Buenos Aires.](#)

⁷⁸⁶ Portal Diverso. December 14, 2020. [Lanzaron tacos de dinamita a casa de periodista orense Mario Pinto;](#) MPNoticias. December 13, 2020. [LANZARON TACOS DE DINAMITA A CASA DE PERIODISTA ORENSE MARIO PINTO.](#)

⁷⁸⁷ Fundamedios. January 13, 2020. [Prensa fue impedida de realizar cobertura en gremio deportivo.](#)

⁷⁸⁸ *4Pelagatos*. February 4, 2020. [La Presidencia demanda a 4Pelagatos.](#)

⁷⁸⁹ *La Historia*. February 26, 2020. [Presidencia censura a La Historia.](#)

⁷⁹⁰ *La Historia*. February 26, 2020. [Presidencia censura a La Historia.](#)

⁷⁹¹ The reports involved are: 1) [Irina en Nueva York: Familia es familia](#), 2) [La Crónica](#), 3) [La Estructura del Gran Reparto](#), 4) [Presidencia censura a La Historia](#), and 5) [Arroz Verde en la Salud: el reparto de los hospitales.](#)

⁷⁹² Fundamedios. July 24, 2020. [Presidencia de la República intenta censurar a portal La Historia por supuestas infracciones de "copyright".](#)

529. The journalist Andrés López, presenter of the program “Andrés ‘el mono’ López” that was broadcasted by *Radio Visión*, announced on his Twitter account that his space was canceled as he was informed on June 24. The reason was reportedly for having used the station's logo in a note about the mayor of Quito, Jorge Yunda, which gave an account of alleged acts of corruption on the part of the official. It was also argued that the journalist presented the note as an editorial, so it did not represent the position of the media. A day after publishing the note, the journalist reportedly received a text message from the director of the radio who told him that if he wanted to continue working at the station, it would be under the guidelines of the media. The journalist considered it an act of censorship⁷⁹³. On June 30, the Ombudsperson's Office announced that it had opened a defense investigation on *Radio Visión* for alleged violation of the right to freedom of expression of the journalist Andrés López. As reported by the Ombudsperson, it asked the legal representatives, manager, and directors to send the documentation they have on “the reasons and arguments that prevailed to terminate the Andrés ‘el mono’ López program” within eight days⁷⁹⁴.

D. Stigmatizing statements

530. This Office received information that the Minister of Government, María Paula Romo, reportedly dedicated at least eight minutes of her presentation on the night of August 30 to question and to criticize Luis Eduardo Vivanco and Andersson Boscán, founders and directors of the digital platform *La Posta*. The Minister responded with a video to a publication that the media made on August 26 about an alleged distribution of hospitals in 10 provinces of Ecuador. These alleged negotiations put the official in the middle of this and were reportedly done with leaked information from a former congressperson who is currently prosecuted for corruption. *La Posta* also published a series of chats between that former legislator and the Minister as proof of this distribution. In addition to giving explanations in her statements, the Minister reportedly used phrases such as “crime disguised as information”, “false journalism disguised as propaganda” and released commercial information on the platform and family relationships of its directors. Likewise, she reportedly made comparisons with journalists that would hint at acts of corruption. Among other phrases, she reportedly said: “It is like saying that (the journalist Andersson) Boscán is part of the hospital corruption network because his aunt is (Daniel) Salcedo's lawyer, or infer that, because Telconet paid a spot to the journalists Boscán and (Luis) Vivanco, then, they would be linked to the investigations made on their manager”.⁷⁹⁵

E. Diversity and pluralism

531. On January 17, the hearing in the Civil and Commercial Chamber of the Court of Pichincha that reviewed the appeal to the Protection Action procedure presented by Televisión was concluded. The channel seeks to recover the temporary frequency of its signal in Guayaquil (channel 11) that was reversed by the Agency for the Regulation and Control of Telecommunications (ARCOTEL), on July 2, 2019.⁷⁹⁶

532. The Agency for the Regulation and Control of Telecommunications (ARCOTEL) issued a resolution on January 23 through which it revoked the enabling title of *Radio Pichincha Universal* in the Pichincha region. According to ARCOTEL, the decision was based on information from the Council for the Regulation, Development, and Promotion of Information and Communication and the Ministry of National Defense, which reported that the radio was allegedly used against public and State security, “a fourth-class infraction typified in article 120, numeral 5 of the Organic Law of Telecommunications”. According to the organism, “the National Government, framed in the fundamental norms of the democratic coexistence that governs us, always rejected –and rejects- chaos, sabotage, and coup, wherever they come from. And it also keeps in mind the importance of values related to freedom of the press and opinion, not with communication practices that align with these destructive tendencies”.⁷⁹⁷ The radio is operated by the local government that is part of the

⁷⁹³ Radio La Calle. June 25, 2020. [\[Video\] Radio Visión censura el programa de Andrés «el mono» López](#); Fundamedios. June 25, 2020. [Periodista denuncia censura de medio radial tras cancelación de su programa](#).

⁷⁹⁴ Defensoría del Pueblo Ecuador. Twitter account (@DEFENSORIAEC). [June 30, 2020](#).

⁷⁹⁵ Fundamedios, August 31, 2020. [Ministra de Gobierno dedicó un video de 8 minutos para cuestionar a periodistas](#); La República. August 31, 2020. [Ministra Romo se defiende y aclara las denuncias del portal La Posta](#); La Verdad. August 30, 2020. [María Paula Romo rompió el silencio y arremete fuertemente en contra de La Posta](#).

⁷⁹⁶ Fundamedios. January 20, 2020. [En 30 días se conocerá la decisión del tribunal sobre acción de protección presentada por Televisión](#).

⁷⁹⁷ Agencia de Regulación y Control de las Telecomunicaciones. January 24, 2020. [Revocatoria del título habilitante de Radio Pichincha Universal](#); Resolución N° ARCOTEL-CZO2-R-2020-004. Organismo desconcentrado – Concentración zonal 2 de la Agencia de Regulación y Control de las Telecomunicaciones –ARCOTEL-. Available at: <https://bit.ly/3ptqWIG>.

political party opposed to President Lenín Moreno. The general manager of the station denied having transmitted information of illegal content and assured that this media is "known for disseminating information 'that is not aligned with the regime of [President] Lenín Moreno'".⁷⁹⁸ In the ARCOTEL resolution, it mentions that in the broadcast of October 3, 2019, which covered the wave of protests that took place in the country from October 3 to 13 of that year, they would have used "phrases that incite the paralysis of the public services" and declared that the station participated "as an inciter to the strikes".⁷⁹⁹ On October 9, 2019, *Radio Pichincha* received an order from the Presidency's Communication Secretariat to adhere to the public radio signal, a measure that was later replaced by a judicial request to suspend the broadcast transmitted by ARCOTEL as a provisional precautionary measure. Its facilities were also raided. *Radio Pichincha* finally returned to the air after 16 days after Judge Mario Cadena accepted a protection action in favor of the radio on October 25, 2019.⁸⁰⁰

533. Following the resolution of January 23, 2020, ARCOTEL's executive director, Ricardo Freire, reported in public statements on January 27 that the organization has not yet arranged to cease broadcasting on *Pichincha Universal* radio. On the afternoon of January 27, a hearing was held before the Court of Pichincha in which the defense of the radio station indicated that ARCOTEL violated constitutional rights.⁸⁰¹

534. On February 19, the director of ARCOTEL did not attend the Committee on Collective, Community and Intercultural Rights of the National Assembly, before which he had to explain the reasons for having withdrawn the enabling title from radio *Pichincha Universal*. Instead, he would have sent the Commission an official letter in which he mentions the appeal of the radio station and assured that he was prevented "from making any value judgment outside of due administrative process, with respect to the resolution by means of which the Decentralized Organism of the Agency for the Regulation and Control of Telecommunications resolved to revoke the enabling title" to that radio station. The director did not attend the appointment that had been made for him on February 5 either.⁸⁰²

535. On August 18, the Special Criminal, Military Criminal, Police, and Traffic Chamber of the Provincial Court of Justice of Pichincha notified *Radio Pichincha Universal* that the protection action filed by the media against ARCOTEL was revoked. According to the document, the appeals filed by ARCOTEL and by the Attorney General of the State had been accepted, so the sentence handed down by Judge Mario Cadena Escobar was revoked, "because there was no violation of the alleged rights"⁸⁰³. Before the announcement, at a press conference on August 19, the prefect of Pichincha, Paola Pabón, announced that she will file an extraordinary protection action before the Constitutional Court to guarantee the rights of freedom of expression.⁸⁰⁴ The radio has reported having suffered more than 2,000 attacks and 262 complaints from the government. In the span of a year, the outlet has been suspended three times.⁸⁰⁵

536. On May 15, the Telecommunications Regulation and Control Agency (ARCOTEL) began the competitive process of assigning 3,196 FM radio frequencies, of which 2,212 are for private media and 984 for community media.⁸⁰⁶ However, some organizations manifested irregularities in the process carried out in the midst of the pandemic. A group of community media, social organizations, human rights organizations, among others, released a statement in which they expressed their concern that the process would be carried out in the midst of the conditions of the pandemic, such as, for example, that they would not have the

⁷⁹⁸ Committee to Protect Journalists (CPJ). January 27, 2020. [El organismo regulador de las telecomunicaciones de Ecuador revoca la licencia de operación de la radioemisora Pichincha Universal](#).

⁷⁹⁹ Fundamedios. Twitter account (@FUNDAMEDIOS). [January 23, 2020](#); Pichincha Comunicaciones. January 24, 2020. [Nuevo intento de censura a Radio Pichincha Universal](#).

⁸⁰⁰ IACHR. [Annual Report 2019. Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). OEA/Ser.L/V/II. Doc. 5. February 24, 2020. Par. 510 - 511.

⁸⁰¹ El Universo. January 27, 2020. [Ricardo Freire, director de Arcotel: Nadie ha dispuesto el cierre de Radio Pichincha Universal](#); El Comercio. January 27, 2020. [Arcotel dice que no ha dispuesto que la radio Pichincha apague transmisiones](#); Pichincha Comunicaciones. January 27, 2020. [En 72 horas, Tribunal de Corte Provincial emitirá resolución en caso Pichincha Universal](#).

⁸⁰² Fundamedios. February 21, 2020. [Presidente de Arcotel no compareció ante la Asamblea por el caso Pichincha Universal](#).

⁸⁰³ Fundamedios. August 19, 2020. [Actualización: Se revoca acción de protección a favor de Pichincha Universal](#).

⁸⁰⁴ Gobierno Provincial de Pichincha. August 19, 2020. [Prefecta Paola Pabón presentará acción extraordinaria de protección para evitar cierre de Radio Pichincha Universal](#).

⁸⁰⁵ Defensoría del Pueblo Ecuador. August 23, 2020. [LA DEFENSORÍA DEL PUEBLO ALERTA SOBRE LA POSIBLE VULNERACIÓN AL DERECHO A LA LIBERTAD DE EXPRESIÓN EN EL CASO DE RADIO PICHINCHA UNIVERSAL](#).

⁸⁰⁶ El Universo. June 23, 2020. [Gobierno denuncia 'conflicto de intereses' en veeduría creada por el Consejo de Participación Ciudadana para vigilar concurso de frecuencias de radio](#).

resources, time, and access to places due to the restrictions of the health crisis. For this reason, they demanded the extension of the term to apply for the process, “we also demand that telecommunications policies allow the full participation of social organizations, peoples, and nationalities, in order to achieve a transparent and plural process, as stated in the Constitution, and it is recommended by organizations such as the Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights” and that the process guarantees the democratization of communication.⁸⁰⁷ 621 interested parties reportedly applied to the process, the contest was postponed for a month, and finally ended in the alleged concentration of frequencies by the businessman Ángel González, who reportedly used a scheme of garage companies, as well as the mayor of Quito, Jorge Yunda, who reportedly used relatives and close people for the distribution of companies.⁸⁰⁸

537. For the Office of the Special Rapporteur, it is especially worrying that organizations denounce irregularities similar to the failed 2016-2017 contest, especially due to the lack of transparency about who the owners of television channels and radio stations are.⁸⁰⁹

F. Impunity

538. The Office of the Special Rapporteur received with concern information on the investigation into the crime against the team of the newspaper *El Comercio* that took place on the border between Ecuador and Colombia. Thus, for example, June 18 marked two years since the investigation of this crime was opened by the Ecuadorian Attorney General's Office, however, so far no charges have been filed against any person. Additionally, on June 30 it was reported that Nelson Guano will be the new prosecutor in charge, replacing Belén Corredores, who led the investigation since 2019.⁸¹⁰

539. This Office also received with concern the information on the two persons prosecuted for the kidnapping and murder of the *El Comercio* team in Ecuador who were released in Colombia. According to available information, Gustavo Alonso Ospina, alias 'Barbas', and Gustavo Angulo Arboleda, alias 'Cherry', were released from jail in June and August 2020, respectively, due to the expiration of legal terms to start the trial stage, according to the criminal process in Colombia⁸¹¹. In a statement on August 25, the Colombian Attorney General's Office condemned that due to congestion in the Criminal Court of the Specialized Circuit of Tumaco, Colombian department of Nariño, in the last four months more than a hundred people deprived of liberty have been released, including the two prosecuted for the crime of the Ecuadorian journalistic team.⁸¹²

G. Internet and freedom of expression

540. The Andean Foundation for Media Observation and Study (Fundamedios) reported that their Facebook account was hacked on January 5 and was fully recovered on January 8. During that time, the organization's Instagram account did not work properly, and its website was also hacked by redirecting to a site with malicious information.⁸¹³

541. The Twitter account of the Yasunidos collective (@Yasunidos) was suspended by the organization on November 26 after a series of publications denouncing the oil spill in the Coca River and the impunity in the treatment of this case. According to available information, Yasunidos along with other organizations working on the same issue, made a “tweet storm” about the spill case. Although the account had been restored a few

⁸⁰⁷ INREDH. June 1, 2020. [Adjudicación de frecuencias en Ecuador se da en medio de emergencia por pandemia.](#)

⁸⁰⁸ Fundamedios. November 19, 2020. [Fundamedios plantea a Arcotel definiciones sobre las inhabilidades para grupos mediáticos de capital extranjero](#); Plan V. September 14, 2020. [‘El Fantasma’ ;otra vez el gran favorecido en el concurso de frecuencias?](#)

⁸⁰⁹ Fundamedios. December 22, 2020. [Fundamedios Ecuador 2020: la pandemia marcó el ritmo del trabajo periodístico.](#) Página 6.

⁸¹⁰ Fundamedios. July 8, 2020. [Fiscalía cambia por tercera vez al fiscal a cargo de la investigación del secuestro y asesinato del equipo de El Comercio.](#)

⁸¹¹ EFE. August 25, 2020. [En libertad dos vinculados al asesinato de periodistas ecuatorianos en Colombia](#); GK City. August 25, 2020. [Dos procesados por el secuestro y asesinato del equipo de El Comercio quedaron en libertad en Colombia](#); El Comercio. August 25, 2020. [Procuraduría General de Colombia cuestiona la liberación de dos procesados por el asesinato del equipo periodístico de Diario EL COMERCIO.](#)

⁸¹² Procuraduría General de la Nación de Colombia. August 25, 2020. [Procesados por crimen de periodistas ecuatorianos y otro centenar de detenidos en Tumaco habrían quedado en libertad por vencimiento de términos: Procuraduría.](#)

⁸¹³ Fundamedios. January 8, 2020. [Facebook de Fundamedios sufre ataque cibernético.](#)

days later and its tweets were visible, its administrators were unable to post.⁸¹⁴ On December 13, the Yasunidos account announced that after 15 days they had recovered the account. A tweet from the account states: “We suffered an attack by trolls to silence us while we made visible the April 7 spill and how the State continues to perpetrate impunity. Today we do it again: #SOSDerrameAmazonía”.⁸¹⁵ The spill in the Coca River occurred on April 7, affecting the indigenous communities of the area. It is the largest spill in the Ecuadorian Amazon in 15 years.⁸¹⁶ Spokespeople for the Yasunidos collective have pointed out that the suspension of their account has prevented them from giving information about the case.⁸¹⁷

H. Protection mechanism

542. On August 11, the Inter-Institutional Committee for the Protection of Journalists and Communication Workers was reactivated as an articulated response to the series of attacks that journalists have suffered in recent months. During the first seven months, the NGO Fundamedios registered 106 alerts of attacks and assaults on journalists. One of the agreements during the reactivation would be the integration of a representative of the Attorney General's Office and the Council of the Judiciary and, if applicable, police intervention to provide protection and support to journalists. Government Minister María Paula Romo has committed to making the necessary approaches to comply with this agreement.⁸¹⁸

543. Since its creation in 2018 as a result of the murder of three members of the *El Comercio* journalistic team on the border with Colombia, the Committee has been activated twice: in 2019 in the framework of protests in which there were at least 115 attacks on journalists and on April 20, to discuss “a draft Protocol of good practices for coverage in risk areas, proposed by the Ministry of Government.” However, the document agreed at that time would remain in draft since May 3 and support for journalists did not arrive in time.⁸¹⁹

I. Legal reforms

544. On December 10, the plenary session of the National Assembly, with 126 votes, approved the report of the second debate of the bill of reforms to the Organic Law of Communication. The reform determines that communication is a human right and not a public service by modifying articles 5 and 44.1 of said law⁸²⁰. The proposal, which lasted two years under discussion, was made by President Lenín Moreno in January 2019, taking as a reference decisions and recommendations of the Inter-American Court and the Inter-American Commission, which indicated that since communication is considered a public service, control resided exclusively within the state. Article 5 establishes that “social communication media are considered to be public, private, and community organizations, as well as radio and television frequency concessionaires, who carry out the mass dissemination of communicational content, through printed media, radio, television, and audio or video by subscription, whose contents can be generated or replicated by the means of communication through the internet. The radioelectric spectrum will not be considered means of communication, since they are concessioned by the State”. Article 44.1 determines that the Social Communication System is “the articulated set of public, private, and community organizations that exercise the massive diffusion of communicational content, in a stable and periodic way, through printed media, radio, television, and audio or video by subscription, whose contents can be generated or replicated by the means of communication through the internet”⁸²¹. The Office of the Special Rapporteur welcomes this decision, which

⁸¹⁴ Fundamedios. December 7, 2020. [Twitter bloquea cuenta de Yasunidos y otras cuentas aliadas tras alertas de un derrame de petróleo en el Río Coca](#).

⁸¹⁵ Yasunidos. Twitter account (@Yasunidos). [December 13, 2020](#).

⁸¹⁶ GK. April 9, 2020. [Erosión de la cascada San Rafael rompe oleoductos y contamina el río Coca](#); DW. April 30, 2020. [Ecuador: indígenas temen hambruna por derrames de petróleo en la Amazonía durante la pandemia](#); Manos Unidas. April 21, 2020. [Un derrame de petróleo afecta a 150 comunidades en Ecuador y Perú](#).

⁸¹⁷ Fundamedios. December 7, 2020. [Twitter bloquea cuenta de Yasunidos y otras cuentas aliadas tras alertas de un derrame de petróleo en el Río Coca](#).

⁸¹⁸ Fundamedios. August 14, 2020. [Sociedad Civil y Gobierno activan el Comité de Protección de Periodistas](#).

⁸¹⁹ GK City. May 3, 2020. [El comité de las buenas intenciones](#).

⁸²⁰ Asamblea Nacional República del Ecuador. December 10, 2020. [POR UNANIMIDAD, ASAMBLEA ESTABLECIÓ LA COMUNICACIÓN COMO UN DERECHO HUMANO](#); El Comercio. December 10, 2020. [La Asamblea suprime por unanimidad el concepto de comunicación como servicio público](#); El Telégrafo. December 10, 2020. [La comunicación deja de ser un servicio público en Ecuador](#).

⁸²¹ Asamblea Nacional República del Ecuador. December 10, 2020. [POR UNANIMIDAD, ASAMBLEA ESTABLECIÓ LA COMUNICACIÓN COMO UN DERECHO HUMANO](#); El Universo. December 10, 2020. [La Asamblea Nacional determinó que la comunicación en Ecuador será un derecho humano y no un servicio público](#); El Comercio. December 10, 2020. [La Asamblea suprime por unanimidad el concepto de comunicación como servicio público](#).

modifies a provision that gave the State exorbitant powers to regulate the exercise of the fundamental right to express freely through the means that each person chooses to do so, as stated previously by this Office⁸²².

J. Subsequent liabilities

545. This Office considers it worrying that during 2020 the process against the computer activist Ola Bini has continued to be suspended, whose preparatory trial hearings were suspended and rescheduled at least five times, on some occasions due to the health emergency caused by COVID-19.⁸²³ The last deferral registered by this Office took place on December 16, 2020, a date that had been set in a hearing held a few days earlier, on December 3, after Ola Bini's defense presented elements for the possible nullity of the trial for lack of evidence. Again, on December 16, at the North Judicial Complex, in Quito, the evaluation hearing and preparation for the trial was suspended.⁸²⁴ According to the information available, the judge of criminal guarantees in charge of the case declared the validity of the process and announced that she would notify the parties for their reinstatement and inform their resolution.

546. Likewise, the Office of the Special Rapporteur learned that on October 8, 2020, the legal defense of Ola Bini had filed a habeas data action, with precautionary measure, against the Minister of Government, María Paula Romo; General Patricio Carrillo, commander of the National Police; the Quito Police Commander, Fausto Salinas; the director of the Judicial Police, Manuel Íñiguez; the Director General of Police Intelligence, Mauro Vargas; and the director of the Center for Strategic Intelligence (CIES-ex Senain), Juan De Howitt.⁸²⁵ Through the promotion of this legal action, the activist asks the Justice to be informed if there would have been any order to carry out follow-ups against him, as well as interceptions of his electronic equipment, such as cell phones and computers. On October 30, allegedly without any prior notice, the habeas data hearing requested by Ola Bini's lawyer was suspended, which was even going to be broadcasted live on social networks to guarantee the publicity of the hearing.⁸²⁶

547. Civil society organizations dedicated to the defense of human rights in the digital environment have drawn attention to irregularities and obstacles raised by the Ecuadorian Prosecutor's Office and have formed an observation mission to guarantee that the right to a fair, independent, and impartial trial is respected.⁸²⁷ This group is made up of the Regional Human Rights Advisory Foundation (INREDH), the Ecuadorian Rights and Justice Observatory, the NGO Derechos Digitales, Article 19, and the Intervozes collective, and includes media outlets such as *Marcha Noticias* from Argentina and *Ecuador Today*.⁸²⁸

548. On April 11, 2019, Ola Bini was detained by officers from the Technological Crimes Investigation Unit of the National Police, at the Mariscal Sucre airport in Quito.⁸²⁹ The arrest came just hours after journalist Julian Assange was evicted from the Ecuadorian embassy in London. The activist was processed with pre-trial detention for 70 days and on June 20 of that year a provincial court ordered his release after accepting a habeas corpus action. Since then, he has been on probation. Initially, the Prosecutor's Office had accused him of attacking the integrity of computer systems and later reformulated the charges to non-consensual access.

⁸²² IACHR. Office of the Special Rapporteur for Freedom of Expression. June 28, 2013. [Press Release R47/13. Office of the Special Rapporteur for Freedom of Expression States its Concern Over the Enactment of the Communications Act in Ecuador.](#)

⁸²³ La República. January 11, 2020. [Fijan para febrero audiencia para juicio de Ola Bini](#); Pichincha Comunicaciones. March 3, 2020. [Se aplaza audiencia convocada para el 17 de marzo en caso Ola Bini](#); La República. March 4, 2020. [Tribunal difiere la audiencia de Ola Bini para el 17 de marzo](#); El Universo. November 26, 2020. [Audiencia por el delito de acceso no consentido a un sistema informático contra Ola Bini está definida para el 3 de diciembre próximo, en Quito](#); GK. December 3, 2020. [Suspenden audiencia preparatoria de juicio contra Ola Bini](#); ALAI. December 4, 2020. [Ecuador: La audiencia de Ola Bini fue suspendida nuevamente](#); EFE. December 16, 2020. [Corte de Ecuador retoma audiencia preparatoria del juicio a amigo de Assange](#).

⁸²⁴ Twitter account of Fiscalía General del Estado (@FiscaliaEcuador). [December 16, 2020](#); El Comercio. December 16, 2020. [Jueza suspendió audiencia de Ola Bini; en espera, si irá o no a juicio](#); Primicias Ecuador. January 4, 2021. [Caso Singue, diezmos y responsables del paro de octubre, parte del menú judicial de 2021](#).

⁸²⁵ Sputnik. October 22, 2020. [Suceso procesado en Ecuador plantea demanda de habeas data por presuntas escuchas ilegales](#); Prensa Latina. November 24, 2020. [Habeas Data en el caso contra Ola Bini en Ecuador](#).

⁸²⁶ Confirmado.net. October 30, 2020. [Experto Carlos Soria denuncia nuevo atropello del sistema de justicia ecuatoriano. Suspenden sin previo aviso audiencia en caso Ola Bini](#); Twitter account of Carlos Soria (@calillo84). [October 30, 2020](#).

⁸²⁷ ALAI. December 4, 2020. [Ecuador: La audiencia de Ola Bini fue suspendida nuevamente](#).

⁸²⁸ See: Free Ola Bini!, available at: https://freeolabini.org/es/recommended_readings/observation-of-the-evaluation-and-preparatory-trial-hearing/.

⁸²⁹ BBC Mundo. April 12, 2019. [Julian Assange: Ecuador arresta a un "colaborador cercano" de WikiLeaks](#); Plan V. August 24, 2019. [La Fiscalía apunta contra Ola Bini con la tesis del Pantallazo](#); CNN. August 16, 2019. [Fiscalía de Ecuador presentó nuevos hallazgos del celular de Ola Bini](#).

549. Among other events, the Office of the Special Rapporteur also received information about a new lawsuit against the journalist Fernando Villavicencio, founder of the online portal *Periodismo de Investigación*, which originated in an investigation signed by him and by fellow journalist Cristian Zurita; the lawsuit reportedly has a series of irregularities in its procedure. On August 1, 2019, the journalists published the article “The return of Oderbrecht: how, who, and for how much they negotiated”⁸³⁰ which would reveal alleged irregularities and acts of corruption in the agreement with the Brazilian firm Odebrecht through which it had avoided civil and criminal responsibilities in the country. Following the article, Juan Falconí Puig, former Ecuadorian ambassador to the United Kingdom during the administration of former President Rafael Correa and a lawyer for the Odebrecht company, only sued Villavicencio for the crime of slander and false accusation of crimes.⁸³¹ According to the information available, the process would have had several irregularities as well. Although the complaint was made on September 2, 2019 before Judge Yadira Proaño, of the Quito Criminal Judicial Unit, it would not have been notified to Villavicencio in the three months established by the Ecuadorian Penal Code. The trial hearing, for example, was scheduled for November 21 but did not take place because Villavicencio had not been notified until then. In 2020, on January 8, after the judge indicated that if the process prescribed, it would not be due to the justice operators, an attempt was made to notify Villavicencio through his Twitter account and an email that did not belong to the journalist. Finally, Villavicencio learned of the complaint on July 9 after publishing a tweet in which he allegedly rebuked Falconí for using a disability card. He would have responded that they would face each other in court, and later former President Correa intervened in the conversation and made mention of the trial supporting Falconí. Villavicencio's defense also denounced having not had access to the physical process once he learned of the complaint until several hours later and after several requests by Villavicencio. The trial hearing was set for July 13, but Villavicencio requested the postponement of the hearing, which was postponed to July 21. On the same July 13, the journalist submitted a letter in which he requests the statute of limitation of the case.⁸³² The hearing was scheduled once again for August 3, but it did not take place either. The journalist had requested that the hearing be held via video conference because his lawyer has health problems and could face complications due to the coronavirus pandemic.⁸³³

550. On September 9, General Fabián Santiago Salas Duarte, National Director of Legal Advice of the Police and Delegate of the Ministry of Government, filed a claim against the journalist Andersson Boscán, co-founder of *La Posta*, for the publication of a tweet in which he reportedly criticized the protection received by police officers from the pandemic. According to the complaint, the journalist's publication had “violated the privacy of the Police”.⁸³⁴ Congressman Jimmy Candell filed a claim against Luis Eduardo Vivanco, another co-founder of *La Posta*, for dishonor and discredit. The publication on social networks of the media would be related to the leak of information in a corruption scheme in which at least 19 legislators were reportedly involved, including Candell. The complaint is based on article 396 of the Comprehensive Organic Criminal Code which establishes a custodial sentence of 15 to 30 days.⁸³⁵

551. The Office of the Special Rapporteur received worrying information about the situation of journalist Juan Sarmiento, who until December 9 had a valid prison order. The conviction against the journalist has its origins in the complaint filed on July 30 by the governor of Napo, Patricio Espíndola Lara, against Sarmiento for moral damage, damage to human dignity, and emotional damage. In his program “Tendencia Digital”, Sarmiento reported on the complaints and questions about Espíndola's handling of the COVID-19 crisis, such as inefficiency in its response, the real number of infected people, management to provide biosecurity elements to the health personnel of the department, among others. The then governor requested in his complaint that the maximum sanction provided for in the Comprehensive Organic Criminal Code (COIP) be established, which establishes a prison sentence of 15 to 30 days for the person who, by any means, utters

⁸³⁰ Periodismo de Investigación. August 1, 2019. [El retorno de Odebrecht: cómo, quiénes y por cuánto negociaron](#).

⁸³¹ IACHR. Office of the Special Rapporteur for Freedom of Expression. E-mail sent on August 10, 2020; Fundamedios. July 13, 2020. [Periodista de investigación fue demandado por reportaje publicado en 2019 pero no fue notificado](#); Periodismo de Investigación. July 12, 2020. [Abogado de Odebrecht demanda penalmente a Fernando Villavicencio](#).

⁸³² IACHR. Office of the Special Rapporteur for Freedom of Expression. E-mail sent on August 10, 2020; Fundamedios. July 13, 2020. [Periodista de investigación fue demandado por reportaje publicado en 2019 pero no fue notificado](#); Periodismo de Investigación. July 12, 2020. [Abogado de Odebrecht demanda penalmente a Fernando Villavicencio](#).

⁸³³ El Universo. August 3, 2020. [Audiencia en contra de periodista Fernando Villavicencio no se realizó](#).

⁸³⁴ La República. September 29, 2020. [Policía denuncia a Andersson Boscán por un tuit](#).

⁸³⁵ Fundamedios. October 27, 2020. [Asambleísta demanda a cofundador de La Posta por deshonra](#).

expressions in disrepute or dishonor against another. On August 18, Sarmiento presented his response to the lawsuit.⁸³⁶ On September 30, the Oral, Public, and Contradictory Trial Hearing was held, but it was suspended by the judge. Subsequently, on October 1, Cristian Pala Cárdenas, judge of the Tena Canton Criminal and Contraventions Judicial Unit, suspended the trial hearing again, and it was postponed until October 5.⁸³⁷ In a decision of October 8, the same judge Pala Cárdena sentenced Sarmiento to 10 days in prison, to pay 25% of a Basic Remuneration (US\$ 100 dollars) and to offer a public apology to Governor Espíndola Lara. The journalist appealed the decision.⁸³⁸ On November 12, the Multicompent Chamber of the Napo Court of Justice ratified the ruling of the Tena Canton Criminal and Contraventions Judicial Unit that stipulated the conviction against Sarmiento. Because it is a second instance decision, it is final, and it means the journalist's imprisonment is ordered once the first instance judge executes the conviction.⁸³⁹ The Office of the Special Rapporteur learned that in this case, President Lenín Moreno reportedly asked Governor Espíndola⁸⁴⁰ to resign, assuring that the political representatives of the government should be aware of government policies such as tolerance and respect for freedom of expression. "With his right, he launched a trial against the journalist and that the Government with his right has asked the Governor of Napo to present his resignation. From his category of citizen, he will be able to file all the trials he wants, but as representatives of the policy of a government of tolerance and respect, he cannot do so", the president was quoted as saying on November 23 during the radio program 'De Frente con el Presidente'.⁸⁴¹ On December 9, the Tena Penal Unit ordered the Napo Judicial Police to locate and capture the journalist to execute the conviction⁸⁴². Sarmiento has indicated that his life is at risk in prison because several prisoners of high-impact crimes -such as rape, drug trafficking, among others- were denounced by him.⁸⁴³ The journalist reportedly received messages from prisoners who were waiting for him. On November 24, the NGO Fundamedios asked the IACHR for precautionary measures in favor of Sarmiento given his imminent arrest.⁸⁴⁴

K. Journalism and COVID-19

552. Ecuador was one of the countries most affected by the COVID-19 pandemic on the continent, especially in the first months of the year.⁸⁴⁵ The journalists said they were in a vulnerable situation not only because of the economic aspect - due to the dismissals in various media - but also because of the high possibility of contagion of the disease.

553. According to the information available, part of the economic crisis of some media would come from the decade of the Rafael Correa administration, which with fines and sanctions was affecting independent media. This situation, added to the crisis of the pandemic, had even greater effects on the media. This was the case of the newspaper *La Hora*, which has had financial problems since the Correa administration. Since February of this year, they stopped paying wages and later made massive layoffs. On May 1, 35 former employees of the Editorial Minotauro company, to which the newspaper *La Hora* belongs, sent a letter to the Ecuadorian president Lenín Moreno, the president of the National Assembly, César Litardo, and other government officials complaining about the massive dismissal of *La Hora* workers, which also would have

⁸³⁶ Fundamedios. September 28, 2020. [Gobernador de Napo presenta demanda contra periodista por daño moral](#); Committee to Protect Journalists (CPJ). November 20, 2020. [Ecuadorian journalist Juan Sarmiento sentenced to prison for 'discrediting' local official](#)<https://cpj.org/es/2020/11/sentencian-a-pena-de-carcel-al-periodista-ecuatoriano-juan-sarmiento-por-desacreditar-a-funcionario-local/>; La Hora. November 27, 2020. [Corte ratifica sentencia contra periodista Juan Sarmiento](#); El Universo. November 24, 2020. [Periodista de Ecuador, sentenciado por criticar gestión de gobernador de Napo, teme por su vida](#).

⁸³⁷ Fundamedios. October 1, 2020. [Actualización: Audiencia de juzgamiento contra periodista en Napo se aplaza](#).

⁸³⁸ Fundamedios. October 8, 2020. [Actualización: Juez de Napo condenó a periodista a 10 días de prisión por daño moral](#); Committee to Protect Journalists (CPJ). November 20, 2020. [Ecuadorian journalist Juan Sarmiento sentenced to prison for 'discrediting' local official](#).

⁸³⁹ Fundamedios. November 13, 2020. [Fundamedios rechaza sentencia que deja a un periodista al borde de la cárcel](#); Committee to Protect Journalists (CPJ). November 20, 2020. [Ecuadorian journalist Juan Sarmiento sentenced to prison for 'discrediting' local official](#); Inter-American Press Association (IAPA). November 25, 2020. [IAPA concerned about a sentence against an Ecuadorian journalist](#).

⁸⁴⁰ Inter-American Press Association (IAPA). November 25, 2020. [IAPA concerned about a sentence against an Ecuadorian journalist](#).

⁸⁴¹ Fundamedios. November 23, 2020. [Renuncia de Gobernador no implica que Gobierno de Lenin Moreno deja de ser responsable en el inminente encarcelamiento de Periodista señala Fundamedios](#); El Universo. November 24, 2020. [Periodista de Ecuador, sentenciado por criticar gestión de gobernador de Napo, teme por su vida](#).

⁸⁴² Fundamedios. December 9, 2020. [Fundamedios condena orden de prisión contra Juan Sarmiento y ante las serias amenazas contra su seguridad anuncia que se lo ha puesto bajo la protección de un programa internacional para periodistas en riesgo](#).

⁸⁴³ La Hora. November 27, 2020. [Corte ratifica sentencia contra periodista Juan Sarmiento](#).

⁸⁴⁴ Fundamedios. November 24, 2020. [Fundamedios solicitó medidas cautelares a la CIDH a favor del periodista Juan Sarmiento](#).

⁸⁴⁵ BBC Mundo. April 1, 2020. [Coronavirus en Ecuador: el drama de Guayaquil, que tiene más muertos por covid-19 que países enteros y lucha a contrarreloj para darles un entierro digno](#).

been done without payment of termination. The dismissal was reportedly based on article 169, numeral 6, of the Labor Code.⁸⁴⁶ Other media that fired workers were the newspaper *El Universo*, which reported on the dismissal of 200 press workers⁸⁴⁷, as well as *Canal Uno*, which reported layoffs.⁸⁴⁸ On July 29, the dismissal of 500 workers of the *Medios Públicos* was known. The General Manager of *Medios Públicos* also announced that the printed edition of the newspaper *El Telégrafo* will disappear to be totally digital, as well as *Ecuador TV* and *Pública FM* radio, which will become totally digital, with the exception of the *Ecuador TV* newscast, which will continue being broadcasted by *Gama TV*.⁸⁴⁹ According to figures as of December, there have been more than 700 dismissals of journalists, including 500 from *Medios Públicos*.⁸⁵⁰

554. The crisis also led to the interruption of the print editions of nine media⁸⁵¹. Two of them reprinted with fewer runs: *El Herald* and *El Espectador*.⁸⁵² Other media closed operations permanently, such as *Radio Ondas Azuayas* and *Radio Splendid*. *Ecuavisa's* "Telemundo" program stopped being broadcasted.⁸⁵³

555. The Office of the Special Rapporteur finds worrying the information that the closure of some media (such as *Radio Azuayas* and *Radio Splendid*) as well as the decrease in circulation of others (*La Hora* newspaper) was reportedly due to the crisis caused by the pandemic added to an alleged debt that the National Electoral Council reportedly has with the media.⁸⁵⁴

556. According to available information, Fundamedios, in conjunction with the organizations Nos Faltan Tres, Periodistas sin Cadenas, the Ecuadorian chapter of Chicas Poderosas, and the Guayaquil civil society coalition, SOS Familias, provided financial assistance through vouchers to journalists in vulnerable situations in the city of Guayaquil, one of the cities most affected at the beginning of the pandemic⁸⁵⁵. As of May, the initiative had identified 113 journalists in a vulnerable situation in Guayaquil alone. Those registered are journalists infected with COVID-19, relatives of journalists who died from COVID-19, or journalists who had lost their jobs due to the pandemic.⁸⁵⁶

557. The pandemic also made press workers vulnerable to contagion. On May 1, according to the NGO Press Emblem Campaign (PEC), it gave figures of journalists killed by coronavirus and Ecuador was the country with the highest number of deaths from this cause with 9 journalists who had died of COVID-19. According to the same organization, until mid-April there had been 16 infected communication professionals and 18 in isolation in Ecuador.⁸⁵⁷ Until August, the NGO Fundamedios registered 39 infected journalists, but it is believed that there is an under-registration.⁸⁵⁸ As of June 2, the death toll was 12 journalists⁸⁵⁹. As of December 20, the same NGO Press Emblem Campaign had registered 41 journalists who died of COVID-19.⁸⁶⁰

558. On March 25, the death of the first journalist in the country, Olmedo Méndez Tacuri, of *Radio Universal Guayaquil*, was reported; and on March 27, the death of Víctor Hugo Peña, news coordinator of the

⁸⁴⁶ Fundamedios. May 1, 2020. [Exempleados de Diario La Hora denuncian despidos masivos injustificados y exigen que se respeten sus derechos laborales](#); Knight Center for Journalism in the Americas. May 13, 2020. [Latin American journalists face mass layoffs and lack of health protection to cover the COVID-19 pandemic](#).

⁸⁴⁷ Fundamedios. September 11, 2020. [La COVID-19 golpea a Ecuador y Latinoamérica](#); Pichincha Comunicaciones. April 22, 2020. [Personal de diario El Universo es desvinculado en plena crisis sanitaria](#).

⁸⁴⁸ Confirmado. April 23, 2020. [Más periodistas son despedidos en medio de la catástrofe](#); Pichincha Comunicaciones. June 2, 2020. [Extrabajadores de Canal Uno protestan por la falta de pagos desde hace siete meses](#).

⁸⁴⁹ GK. July 24, 2020. [Medios Públicos terminará los contratos de 500 funcionarios](#); El Comercio. July 24, 2020. [Gerente asegura que los medios públicos no desaparecerán](#); El Universo. July 24, 2020. [Unos 500 trabajadores se desvincularán de la empresa de Medios Públicos como parte de la optimización de recursos](#).

⁸⁵⁰ Fundamedios. December 22, 2020. [Fundamedios Ecuador 2020: la pandemia marcó el ritmo del trabajo periodístico](#). Página 5.

⁸⁵¹ Fundamedios. April 17, 2020. [Medios impresos ecuatorianos colapsan económica y operativamente durante la pandemia](#); Fundamedios. September 11, 2020. [La COVID-19 golpea a Ecuador y Latinoamérica](#).

⁸⁵² Fundamedios. June 10, 2020. [Dos semanarios de Cañar volvieron a imprimir con menos tiraje debido a la pandemia](#).

⁸⁵³ Fundamedios. September 11, 2020. [La COVID-19 golpea a Ecuador y Latinoamérica](#).

⁸⁵⁴ Fundamedios. July 15, 2020. [Radio AM en Cuenca cerrará operaciones por deudas impagas del CNE y la crisis provocada por la pandemia](#).

⁸⁵⁵ Fundamedios. April 24, 2020. [#SOSPERIODISTAS: LOS TRABAJADORES DE LA PRENSA NECESITAN AYUDA](#).

⁸⁵⁶ Knight Center for Journalism in the Americas. May 13, 2020. [Latin American journalists face mass layoffs and lack of health protection to cover the COVID-19 pandemic](#).

⁸⁵⁷ El Comercio. May 1, 2020. [Ecuador, el país con más periodistas fallecidos por coronavirus](#).

⁸⁵⁸ Fundamedios. December 22, 2020. [Fundamedios Ecuador 2020: la pandemia marcó el ritmo del trabajo periodístico](#). Página 5.

⁸⁵⁹ EFE. June 2, 2020. [Ecuador registró 12 periodistas fallecidos por COVID-19, a nivel mundial la cifra asciende a 127](#).

⁸⁶⁰ Press Emblem Campaign (PEC). Consulted on [December 21, 2020](#).

Ecuavisa channel.⁸⁶¹ Among other reported cases are those of Pedro Valdivieso Barrezueta, producer and director of photography, who died on April 6⁸⁶², as well as the sports communicators of the radio *Centro*, Julio Rodríguez and Carlos Alberto Pangol who died on July 3 in the city of Ambato, Tungurahua province.⁸⁶³ On July 24, the death of sports journalist Javier Eduardo Culcay Villena was reported.⁸⁶⁴ On August 30, the death of radio journalist from Riobamba (*Chimborazo*) Pedro Daniel Sanaguano Llangari was reported.⁸⁶⁵

559. On June 16, the Maintenance Unit of the National Police prevented the entry of at least 12 journalists to the headquarters of the State Attorney General's Office in Quito where they had arrived to cover the statements of the mayor of the city Jorge Yunda who was going to submit his free and voluntary version of the acquisition with an alleged surcharge of PCR tests to detect COVID-19. According to the available information, reportedly there was no place for journalists to ask their questions, there was a police barrier that prevented the coverage, and despite the rules of social distancing, there were some 200 supporters of the mayor in the place. In the midst of the chaos there was allegedly shoving of journalists, a reporter denounced having been kicked by a police officer.⁸⁶⁶

L. Access to public information

560. Access to public information during the pandemic has also been affected. Information on the evolution of the disease in the country as well as other issues have not been delivered on time or have not been delivered.

561. On March 10, the journalist María Sol Borja, Policy editor of the *GK City* site, denounced through her Twitter account the difficulty and obstacles to accessing public information from the Government and Economy ministries, and at the State Comptroller General's Office (CGE). According to her, she said, the Comptroller's Office had not answered to her request four months ago, the Ministry of Government had not answered for two months, and the Ministry of Economy a month. The journalist herself told an NGO that when requesting information from the ministries, they usually "give you the wrong or incomplete information or simply don't answer." The journalist added that in the response to her tweet, several journalists indicated that they had the same problem and that even within her media *GK City*, there are also several examples.⁸⁶⁷ On July 1, Borja on her Twitter account indicated that the Ministry of Public Health had closed a chat that she had enabled for journalists to ask questions "after weeks of ignoring requests for information and questions from journalists." According to her, she said, the MSP opened a "one-way" channel and added that the Foreign Ministry would have done the same. The journalist wrote: "This is how two public institutions that, although they are obligated to be held accountable through the press, they prefer not to".⁸⁶⁸

562. On March 16, virtual press conferences began as a security measure. However, some media have denounced that the process for asking questions is not clear and the established rules are not being followed. Journalists should send questions through a WhatsApp group of the National Secretariat of Communication (Secom) that are then sent to a journalist from the public media who is in charge of asking them to the corresponding authority. However, it is not known how these questions are chosen, what is the order, which are allowed, or which are discarded. One of the rules of asking one question per media would be disrespected. There have been reports of occasions in which questions by three journalists from the same media are asked.⁸⁶⁹

563. According to available information, the Ministry of Public Health (MSP) would have reduced the information on deaths and infections from COVID-19. According to the complaints, the MSP was reportedly issuing very general reports, not updated its communication channels, and even had removed some reports

⁸⁶¹ Fundamedios. March 27, 2020. [Dos periodistas fallecen en Guayaquil con síntomas de Covid19.](#)

⁸⁶² Fundamedios. July 15, 2020. [Director de fotografía y exproductor de medios nacionales falleció con COVID-19.](#)

⁸⁶³ Fundamedios. July 3, 2020. [Periodista y comentarista deportivo fallecieron el mismo día con COVID -19.](#)

⁸⁶⁴ Fundamedios. July 26, 2020. [Muere el décimo noveno periodista ecuatoriano con síntomas de COVID-19.](#)

⁸⁶⁵ Fundamedios. September 2, 2020. [Periodista riobambeño murió por COVID-19.](#)

⁸⁶⁶ Fundamedios. June 16, 2020. [Periodistas fueron agredidos por la Policía durante comparecencia del Alcalde de Quito en la Fiscalía;](#) Emerson Rubio. Twitter account (@EmersonRubio22). [June 16, 2020.](#)

⁸⁶⁷ Fundamedios. March 10, 2020. [Periodista denuncia que instituciones públicas no entregan información solicitada;](#) María Sol Borja. Twitter account (@mariasolborja). [March 10, 2020.](#)

⁸⁶⁸ María Sol Borja. Twitter account (@mariasolborja). [July 1, 2020.](#)

⁸⁶⁹ GK City. March 27, 2020. [Las preguntas que el gobierno no responde.](#)

from its website. This information problem affects the work of journalists, but also of academics, specialists, social organizations, and even local governments. On July 11, it was reported that the page designed by the government to disseminate information about the pandemic (www.coronavirusecuador.com) had been out of date for a month. On July 4, the MSP reportedly removed a page where it published the epidemiological bulletins of each province that it had issued up to that moment. The bulletins were not daily, but they offered data on the most populated provinces and cantons, breaking down the figures by parish. On its website it has a repository of these newsletters updated until May 29. Information was also received that the MSP's National Epidemiological Surveillance Directorate, in charge of monitoring the spread of the virus, had stopped updating information in an account on Tableau.⁸⁷⁰

564. On July 1, journalist María Sol Borja on her Twitter account indicated that the Ministry of Public Health had closed a chat that it had enabled for journalists to ask questions "after weeks of ignoring requests for information and questions from journalists." According to her she said, the MSP opened a "one-way" channel".⁸⁷¹

565. The information provided by the country's Minister of Health, Juan Carlos Zevallos, has also been criticized for inconsistencies. According to available information, the Minister reportedly gave different figures, for example on the number of ventilators available, beds in Intensive Care Units, and even on the number of infections. Thus, for example, between May 7 and 8, 1,480 confirmed cases disappeared in the infographics that record confirmed cases of COVID-19. When asked by journalists, he would not have given an answer. Later, through a bulletin, he explained that the reduction was due to a change in the measurement of positive cases. Journalists have complaints due to lack of information: the group created on WhatsApp to ask questions was closed and instead a one-way channel was created on Telegram. Even when the WhatsApp group was active, officials allegedly did not respond in time and asked to send a request for information to the communication director's email. Additionally, this position would have been held by five different people between March and July 2020. The attitude towards the media and journalists continued even after the Vice Minister of Health, Xavier Solórzano, promised to improve communication channels after a discussion he had with journalists.⁸⁷²

566. On August 10, the Confederation of Indigenous Nationalities of the Amazon (Confeniae) activated a link to update regularly and thus know the progress of COVID-19 in their towns. Until that date, there was no public information on the progress of the disease in the 11 Amazonian nationalities of Ecuador, which by August already had 2,000 infections. According to what Andrés Tapia, Confeniae's communication leader, said to a media outlet, the organization insisted on its request for disaggregated information on the impact of COVID-19 on Amazonian indigenous communities at government press conferences. Confeniae carried out its own registry because the government would not have given a positive response to that request. According to their records, the Kiwchua, Shuar, and Waorani nationalities are the most affected by COVID-19, with more than 300 cases.⁸⁷³

567. In a hearing on August 24, an Ecuadorian judge ordered the Ministry of Public Health (MSP) to deliver information on COVID-19 cases to the municipality of Guayaquil. The decision comes after the municipality filed a constitutional action for access to public information on the data of patients infected with COVID and their home address. The objective, according to the Municipality, is to be able to "intervene in those areas and provide the help that is required." According to the information available, the municipality would have received data such as the tests carried out and the addresses of the new infections during the months of March and May. However, weeks before the hearing, the MSP reported that it would stop releasing the information because the legal framework prohibits the disclosure of this type of information without the express authorization of the owner.⁸⁷⁴

M. Social protest

⁸⁷⁰ El Universo. July 11, 2020. [El Ministerio de Salud merma la información sobre muertes y contagios por COVID-19.](#)

⁸⁷¹ María Sol Borja. Twitter account (@mariasolborja). [July 1, 2020.](#)

⁸⁷² GK City. July 19, 2020. [Quién le entiende a Juan Carlos Zevallos \(y a su Ministerio\).](#)

⁸⁷³ Global Voices. August 10, 2020. [Pueblos amazónicos en Ecuador crean su propio monitoreo en internet para conocer el avance de COVID-19 en sus pueblos.](#)

⁸⁷⁴ El Comercio. August 24, 2020. [Juez ordena al Ministerio de Salud entregar información sobre casos de covid-19 al Municipio de Guayaquil.](#)

568. In the framework of the evolution of the pandemic, a repression of a demonstration in Guayaquil on May 14 was reported. According to the information available, the sit-in was held “against the budget cut, the lack of measures and protocols for the removal and identification of corpses in Guayaquil, the absence of an efficient health budget, the dismissal of workers, and the prioritization of the payment of the external debt”. During the sit-in, the National Police allegedly pushed and attacked people who were playing music, and later attacked those who sought to document these alleged abuses. At least four human rights defenders whose whereabouts were uncertain for several hours were allegedly detained. Among the journalists attacked are the photographers Valentina Encalada and Miguel Canales, from the newspaper *Expreso*.⁸⁷⁵

N. Other relevant situations

569. The Inter-American Court of Human Rights announced the processing of the case Emilio Palacio Urrutia and others against the State of Ecuador. The case stems from the 2012 ruling against the directors of the newspaper *El Universo*, Carlos, César and Nicolás Pérez, and their former Opinion editor, Emilio Palacio. In 2011, then-President Rafael Correa sued Palacio for slander after publishing the column 'No to lies', published on February 6, 2011, which referred to the alleged attempted coup of September 30, 2010 and that Correa denounced at the time. The complaint also included the directors of the newspaper as contributing authors. The Ecuadorian Justice ruled in first and second instance in favor of the former president, and the four were sentenced to three years in prison and to pay US\$40 million dollars in compensation.⁸⁷⁶ The case was presented to the IACHR, which on its merits report determined that the conviction against *El Universo*, issued by an Ecuadorian court in 2011, had constituted a violation of freedom of expression. On October 16, 2019, the IACHR referred the case to the Inter-American Court.⁸⁷⁷

570. On October 1, the provincial director of the Pastaza Judicial Council asked *Radio MIA* for a copy of the programs that were broadcasted on September 25, 29, and 30 between 6 a.m. and 8 a.m. According to the official letter sent to the station, the official indicates that the opinions of the journalist Nicolás Méndez Barahona threaten his honor, reputation, and good name; as well as "collaterally harming" the Council. According to the information available, the journalist has an interview and opinion space where he reportedly criticized the justice system and the fact that this official had taken office without holding a contest of merits and opposition. The letter also states that "he will know how to adopt the corresponding measures to avoid this type of action, which not only could entail subjective legal responsibilities against those who comment, but which in turn could have administrative consequences against the respective media".⁸⁷⁸

571. According to the events recorded in Ecuador during 2020, this Office reminds the State that:

572. **Attacks and aggressions committed against journalists violate the right to freedom of expression both in its individual and collective dimensions and cannot be tolerated in a democratic society.** Principle 9 of the Declaration of Principles on Freedom of Expression of the IACHR states that “[t]he murder, kidnapping, intimidation of, and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of States to prevent and investigate such occurrences, to punish their perpetrators, and to ensure that victims receive due compensation.” Particularly in the case of crimes against journalists and social communicators, the IACHR has indicated that impunity contributes to the self-censorship of the press.

573. **The inter-American human rights system explicitly prohibits prior censorship.** The Office of the Special Rapporteur recalls that Article 13.2 of the American Convention explicitly states that the exercise of freedom of expression cannot be subject to prior censorship. Further, Principle 5 of the Declaration of

⁸⁷⁵ Vistazo. May 14, 2020. [Plantón 'Estamos en luto y en resistencia' deja varios detenidos en Guayaquil: organizaciones de DDHH denuncian agresiones](#); Alianza por los derechos humanos Ecuador. May 14, 2020. [Alerta 34. Manifestantes, Periodistas y Defensores de Derechos Humanos fueron agredidos y detenidos en Guayaquil por ejercer su derecho a la protesta, la libertad de expresión y la defensa de DDHH.](#)

⁸⁷⁶ El Universo. February 21, 2020. [Caso El Universo pasa a la Corte Interamericana de Derechos Humanos](#); Committee to Protect Journalists (CPJ). February 24, 2020. [Inter-American Court to hear El Universo's case against defamation suit filed by former Ecuadorian president.](#)

⁸⁷⁷ IACHR. February 24, 2020. [Press Release 048. IACHR Brings Ecuador Case before the IA Court.](#)

⁸⁷⁸ Fundamedios. October 6, 2020. [El Director del Consejo de la Judicatura solicitó copias de los programas de Radio MIA.](#)

⁸⁷⁸ I/A Court H. R. [Case Ríos et al v. Venezuela. Preliminary Objections, Merits, Reparations and Costs.](#) Judgment of January 28, 2009. Serie C No.194. Par. 139.

Principles on Freedom of Expression establishes that “[p]rior censorship, direct or indirect interference in, or pressure exerted upon any expression, opinion, or information transmitted through any means of oral, written, artistic, visual, or electronic communication must be prohibited by law. Restrictions to the free circulation of ideas and opinions, as well as the arbitrary imposition of information, and the imposition of obstacles to the free flow of information violate the right to freedom of expression.”

574. **Public authorities are called upon to maintain a speech favorable to public deliberation and freedom of expression.** The IACHR recalls that public officials have the duty to ensure that their statements are not infringing the rights of those who contribute to the debate by expressing and disseminating their thoughts, such as journalists, the media, and human rights organizations. According to the Inter-American Court of Human Rights, this type of statements from public officials could constitute an indirect restriction on the right to freedom of expression.⁸⁷⁹

575. **Transparency and accountability of public powers strengthen democratic systems.** Access to public information is a fundamental right of individuals and States are obligated to guarantee its exercise. In the context of the health emergency, based on the obligation of active transparency, States must proactively provide truthful and reliable information on all aspects of public interest related to the pandemic, in open formats, and in a manner accessible to all. Given the existence of the digital divide, States must find effective ways to fulfill the obligation of active transparency in such circumstances. The IACHR Resolution on Pandemic and Human Rights in the Americas highlighted the crucial role that journalists play in the context of the health emergency, by reporting on critical points and monitoring government actions, for which the States have the obligation to allow access to official press conferences to all media, without discrimination by editorial line, except for the necessary and proportional measures to protect health. Even the questions posed in virtual spaces must be answered by the authorities with due diligence, because the press is the main channel for submitting questions or queries to the authorities in the face of the emergency situation and the isolation of the population.⁸⁸⁰

576. **Direct or indirect pressures aimed at silencing the informative work of social communicators are incompatible with freedom of expression.** The Office of the Special Rapporteur recalls that the allocation of radio and television licenses must be guided by democratic criteria and pre-established, public, and transparent procedures, which serve as a brake on the possible arbitrariness of the State and guarantee conditions of equal opportunities for all persons and stakeholders. In this regard, Principle 12 of the Declaration of Principles has highlighted that “[t]he concession of radio and television broadcast frequencies should take into account democratic criteria that provide equal opportunity of access for all individuals.” Principle 13 states that , “the exercise of power and the use of public funds by the state, the granting of customs duty privileges, the arbitrary and discriminatory placement of official advertising and government loans; the concession of radio and television broadcast frequencies, among others, with the intent to put pressure on and punish or reward and provide privileges to social communicators and communications media because of the opinions they express threaten freedom of expression, and must be explicitly prohibited by law.”

577. **Community journalism contributes to diversity and information pluralism.** This Office emphasizes that the community media in our region play a fundamental role in the exercise of freedom of expression and access to information by different sectors of society.⁸⁸¹ For this reason, it is necessary that the States legally recognize them and that spectrum reserves are contemplated for this type of media, as well as equitable conditions of access to licenses that differentiate the different realities of non-commercial private media.

578. **The use of criminal mechanisms to punish speech on matters of public interest, especially related to public officials, is incompatible with inter-American standards.** In accordance with principles 10 and 11 of the Declaration of Principles on Freedom of Expression of the IACHR, this Office recalls that “the

⁸⁷⁹ /A Court H. R. [Case Ríos et al v. Venezuela. Preliminary Objections, Merits, Reparations and Costs](#). Judgment of January 28, 2009. Serie C No.194. Par. 139.

⁸⁸⁰ IACHR. Special Rapporteurship for Freedom of Expression. April 18, 2020. [Press release R78/20. IACHR and its SR FOE express concern about restrictions on freedom of expression and access to information in States' response to the COVID-19 pandemic](#). IACHR. [Annual Report 2002. Report of the Special Rapporteur for Freedom Of Expression](#). Chapter IV (Freedom of Expression and Poverty). OEA/Ser.L/V/II.117. Doc. 1 rev. 1. March 7, 2003. Par. 41

protection of reputation must be guaranteed only through civil sanctions", particularly "in cases where the offended person is a public official or a public or private person who has voluntarily become involved in matters of public interest" by virtue of the fact that officials "are subject to greater scrutiny by society". Furthermore, the IACHR has repeatedly held that the application of criminal law to punish expressions referring to public officials is disproportionate when it comes to protected speech, such as information or expression on matters of public interest, and violates the right to freedom of expression.⁸⁸²

⁸⁸² IACHR. [Annual Report 2015. Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter V (Conclusions and Recommendations). OEA/Ser. L/V/II. Doc. 48. December 31, 2015.

EL SALVADOR

579. Threats to the right to freedom of expression intensified during 2020 in El Salvador. The Office of the Special Rapporteur notes with particular concern the constant disparagement by high-level authorities of journalists and media outlets whose editorial lines are critical of the government, which undermines and erodes the crucial role of the press in democratic societies and prevents a reasonable and pluralistic deliberation on public affairs.

580. Restrictions imposed by government agencies on access to public information have also increased since the outbreak of the pandemic. In March, the Legislative Assembly suspended deadlines and administrative hearings, including those related to access to public information. They extended the measure in subsequent decrees. By mid-year, El Salvador remained one of the few democratic countries in the region whose Access to Information Law was still suspended due to the public health crisis.

A. Access to public information

581. Since the outbreak of the COVID-19 pandemic, the media and civil society organizations in El Salvador have reported an increase in the existing government restrictions on the right of access to information, such that there has been an almost total shutdown of institutional public response and information channels. This was seen in the suspension of administrative deadlines for requests for access to information, as well as in not being able to ask questions at official press conferences.

582. This office paid particular attention to this issue. The Special Rapporteur expressed concern about the restrictions on journalists' right to ask questions and people's right to know about matters of public interest such as the COVID-19 pandemic and emphasized that the emergency cannot justify keeping people from asking questions about the public health situation and the government's measures.⁸⁸³

583. Since the beginning of the year, according to media reports, the Information and Response Offices have denied information on issues such as hiring statistics, quarantine centers, emergency public procurement, tests to detect the advancement of COVID-19, requests for shelter or economic compensation, and people detained for driving on public roads, among others.⁸⁸⁴ They also note that the information proactively published by the State on emergency purchases, the availability of supplies, and direct contracting is minimal.⁸⁸⁵

584. In March, through Legislative Decree 593 and Decree 599, the Legislative Assembly suspended the deadlines and holding of administrative hearings for 30 days, including those scheduled by the Institute for Access to Public Information. It extended the measure in subsequent decrees.⁸⁸⁶ On May 14, the Institute for Access to Public Information (IAIP) filed a writ of *amparo* [petition for a constitutional remedy] with the Constitutional Chamber of the Supreme Court of Justice against the Legislative Assembly seeking to invalidate the suspension of administrative deadlines for the processing of requests for access to public information and personal data protection, as well as the processing of administrative proceedings at IAIP headquarters.⁸⁸⁷ The agency contended that Legislative Decrees 599 and 593 violated the constitutional right of access to information, protection of personal data, and nonjudicial protection of the population. In statements to the press, the IAIP president said that "health care and respect for the right of access to information are not

⁸⁸³ Twitter account of Special Rapporteur Edison Lanza (@EdisonLanza). [March 25, 2020](#); Twitter account of Special Rapporteur Edison Lanza (@EdisonLanza) [May 14, 2020](#)

⁸⁸⁴ El Faro. April 9, 2020. [El Gobierno también puso en cuarentena el acceso a la información pública](#); APES. April 18, 2020. [Ministerio de Trabajo de Usulután niega información pública a periodistas](#); Artículo 19, Oficina para México y Centroamérica. July 9, 2020. [Informe especial C.O.V.I.D: Libertad de expresión e información durante pandemia de COVID-19 en México y CA](#).

⁸⁸⁵ Revista Factum. June 2, 2020. [Toda la información que nos negaron](#).

⁸⁸⁶ Asamblea Legislativa de la República de El Salvador. [Suspenden términos y plazos procesales administrativos y judiciales mientras dure la emergencia nacional](#). March 20, 2020; El Diario de Hoy. March 20, 2020. [Asamblea suspende plazos y términos en procesos judiciales y administrativos](#).

⁸⁸⁷ Instituto de Acceso a la Información Pública of El Salvador. May 14, 2020. [IAIP presenta demanda de amparo contra Asamblea Legislativa](#); Teleprensa. May 15, 2020. [IAIP presenta amparo por suspensión de plazos para procesos de información pública](#); Diario El Mundo. May 19, 2020. [El Salvador, entre países con menor acceso a la información en pandemia](#).

mutually exclusive” and that the coronavirus crisis should not be an excuse to hide data on public management.⁸⁸⁸

585. On June 10, this office, through its Special Rapporteur Edison Lanza, emphasized that El Salvador remained one of the few democratic countries in the region whose Access to Information Law was still suspended due to the pandemic.⁸⁸⁹ In a joint statement with the freedom of expression experts of the United Nations and the Organization for Security and Cooperation in Europe, the Office of the Special Rapporteur called on States to vigorously promote and enforce access to information laws during the pandemic. The rapporteurs underscored the crucial role of journalism during a public health emergency, particularly when it seeks to inform the public about critical information and monitor government actions.⁸⁹⁰

586. This Office has also noted complaints about alleged irregularities in the election of candidates to serve as commissioners. The *Grupo Promotor de la Ley de Acceso a la Información Pública* [Group to Promote the Access to Public Information Law] and civil society organizations alerted the public and the Office of the Special Rapporteur about the executive branch’s attempt to take control of the Institute for Access to Public Information (IAIP), which would undermine its independence.⁸⁹¹ The organizations said there was evidence of wrongdoing in the election of commissioners to the institution, and that the deadlines the government set for universities and journalists’ associations to present their candidates for the shortlists did not give them enough time to do so. According to public information, the Salvadoran government also concealed the vote for the new IAIP commissioner by the journalists’ sector. The general meeting was held in secret and with the exclusive participation of the representatives of two unions that proposed candidates, in violation of the Law on Access to Public Information and its regulations on deadlines, the number of participating organizations, and the principles of openness and maximum transparency.⁸⁹² For this reason, the Association of Journalists of El Salvador (APES), which was excluded from the process, demanded the nullification of the vote.

587. The Office of the Special Rapporteur received information on amendments to the Regulations to the Law on Access to Public Information that the executive branch reportedly made by executive decree, granting more powers to the president of the IAIP, undermining collective decision-making in the institute’s plenary sessions. The decree also reportedly repealed the provisions that allowed citizens to challenge candidates in the election of commissioners and made it more difficult for citizens to request the declassification of classified information. According to several independent media, this was another way to reduce the State’s transparency and accountability obligations.⁸⁹³ The IAIP rejected the president’s amendments as a “risk” to the protection of the right to information. According to IAIP representatives, the main risk lies in the amendment to the article that provides for the “resolution of disputes on the classification or declassification” of documents requested by citizens.⁸⁹⁴

588. The state of emergency due to COVID-19 showed that the government and its communication offices were controlling information more tightly. The Office of the Special Rapporteur observed restrictions on information during press conferences, where journalists from different media outlets were prevented from asking questions about the country’s public health situation. The independent press and small media outlets were particularly affected in terms of access to official sources of information.

589. Regarding requests to open archives to investigate crimes committed during the armed conflict, in March the Ministry of Defense prevented commissioners from the Institute for Access to Public Information

⁸⁸⁸ El Diario de Hoy. May 3, 2020. [Presidenta IAIP: “La atención sanitaria y el respeto al derecho de acceso a la información no son excluyentes”](#).

⁸⁸⁹ Twitter account of Special Rapporteur Edison Lanza (@EdisonLanza). [June 10, 2020](#).

⁸⁹⁰ IACHR. Special Rapporteurship for Freedom of Expression. March 19, 2020. Press Release R58/20. [COVID-19: Governments must promote and protect access to and free flow of information during pandemic – International experts](#).

⁸⁹¹ El Mundo. July 9, 2020. [Organizaciones denuncian intento de control y hacer retroceder el trabajo del IAIP](#); YSUCA. July 9, 2020. [Organizaciones de la Sociedad Civil temen que el Gobierno intente controlar el IAIP](#); ElSalvador.com. July 24, 2020. [Organizaciones alertan a relator de OEA sobre intento del Ejecutivo de controlar Instituto de Acceso a Información](#).

⁸⁹² Factum. September 3, 2020. [Presidencia elige a puerta cerrada al nuevo comisionado de transparencia](#); Gato Encerrado. September 4, 2020. [Capres violó la ley en elección de candidatos a comisionados del IAIP](#).

⁸⁹³ ElSalvador.com. September 8, 2020. [Bukele reforma reglamento de la LAIP y debilita acceso de ciudadanos a información pública, denuncia abogada](#); Gato Encerrado. September 9, 2020. [Bukele excedió su potestad reglamentaria y aprobó una reforma disfrazada a la LAIP](#); El Faro. September 11, 2020. [Bukele confecciona un IAIP menos transparente vía decretos ejecutivos](#); Factum. September 12, 2020. [Bukele dicta nuevas reglas y nombra un comisionado para alejarse de la transparencia](#).

⁸⁹⁴ Deutsche Welle (DW). September 11, 2020. [El Salvador: ente de transparencia rechaza cambios de Bukele](#).

from entering military facilities to carry out a scheduled administrative inspection of military archives.⁸⁹⁵ The Institute for Access to Public Information complained that while they were trying to enter the Armed Forces Chief of Staff Headquarters, they were watched and photographed with cameras, cell phones, and a drone.⁸⁹⁶

590. The Special Rapporteur for Freedom of Expression congratulated the Institute for making progress in auditing and opening the archives on repression during armed conflict, expressed concern about the Ministry of Defense's obstruction of on-site inspections, and recalled that records on serious violations cannot remain secret for reasons of national security.⁸⁹⁷

591. The Office of the Special Rapporteur also highlights the importance of the judgment handed down on August 28 by the Examining Court of San Francisco Gotera [*Juzgado de Instrucción de San Francisco Gotera*] in Morazán, ordering that inspections of the archives of different military bases in that country be carried out between September 21 and November 13.⁸⁹⁸ The purpose of examining the archives is to find evidence to help establish the truth about the El Mozote massacre, which occurred in December 1981 in a village near San Salvador. The judge also issued a preventive precautionary measure "requiring those officials with custody of the files chosen for inspection to prevent the relocation, removal, or concealment of any document from those files."

592. Despite this, the armed forces blocked the judge in the case, Jorge Guzmán, from access on at least six occasions.⁸⁹⁹ He was first blocked on September 21, when a FAES colonel informed the judge of the government's refusal to allow access to the archives. That same week, the chief of staff stated in a national broadcast that the refusal to comply with the court ruling was justified for several reasons, including that the judge in San Francisco Gotera did not have jurisdiction over the Joint Chiefs of Staff of the Armed Forces and that it would be a risk to reveal information of strategic value to the State. The second time access was denied was on October 12 at the First Air Brigade in Ilopango; the third instance was on October 13, at the Second Air Brigade of the Air Force, based in Comalapa; the fourth time the judge was barred from entry was on October 14, this time at the Artillery Brigade "Teniente Coronel Óscar Osorio," located in San Juan Opico; the fifth unsuccessful attempt to inspect the files was made on October 27 at the Third Infantry Brigade in San Miguel; finally, the sixth denial of access occurred on October 29 at Military Detachment Number 4, in San Francisco Gotera, Morazán.

593. On October 8, the IACHR and its Office of the Special Rapporteur for Freedom of Expression voiced serious concern over the refusal of the Ministry of National Defense to comply with a court order to allow a judicial inspection of the archives of the Armed Forces of El Salvador in the case of the Massacre of El Mozote and nearby places.⁹⁰⁰ They also urged the Salvadoran State to comply with its obligation to order, systematize, and release the documentation and archives related to the serious human rights violations under investigation as a guarantee of the right to truth and justice.

⁸⁹⁵ Twitter account of Instituto de Acceso a la Información Pública (@iaip_elsalvador) [March 6, 2020](#); La Prensa Gráfica. March 6, 2020. [Estado Mayor niega ingreso a comisionados de Información Pública: "Se observó fuerte presencia militar y grabación desde drone"](#); El Mundo. March 6, 2020. [Defensa niega ingreso a comisionados del IAIP para inspección de archivos militares](#); Arpas. March 6, 2020. [El comandante milénial de la FAES que vuelve a esconder los archivos militares](#); Contrapunto. March 6, 2020. [Fuerza Armada bloquea a comisionados del IAIP en inspección de archivos militares](#); Diario 1. March 6, 2020. [Fuerza Armada impide a comisionados revisar archivos militares](#); ElSalvador.com. March 7, 2020. [Defensa obstaculiza acceso del IAIP a archivos militares](#).

⁸⁹⁶ Twitter account of Instituto de Acceso a la Información Pública (@iaip_elsalvador) [March 6, 2020](#); Gato Encerrado. March 10, 2020. [Idhuca solicita al Ministerio de Defensa que explique uso de dron en diligencia IAIP](#).

⁸⁹⁷ Twitter account of Special Rapporteur Edison Lanza (@EdisonLanza) [March 6, 2020](#).

⁸⁹⁸ CNN. August 28, 2020. [Juez ordena inspeccionar archivos militares en busca de pruebas de la masacre de El Mozote](#); Infobae. August 28, 2020. [Un juez de El Salvador ordena proteger los archivos de la masacre de El Mozote](#); YSUCA. August 29, 2020. [Juez de Instrucción programó inspección de archivos militares para el caso El Mozote](#); Sputnik. August 29, 2020. [Un juez de El Salvador ordena resguardar archivos militares para evitar su ocultamiento](#); ARPAS. August 31, 2020. [Histórica inspección de archivos militares por masacre de El Mozote se realizará en septiembre](#).

⁸⁹⁹ Gato Encerrado. November 5, 2020. [El peregrinaje del juez y las víctimas del caso El Mozote por acceder a los archivos militares](#); AP News. September 21, 2020. [El Salvador: fuerza armada impide acceso a sus archivos](#); El Mundo. September 25, 2020. [Bukele: juez de caso El Mozote no tiene jurisdicción sobre FAES y desclasifica archivos](#); Deutsche Welle (DW). October 13, 2020. [Militares salvadoreños impiden por tercera vez recoger pruebas en batallón sobre masacre de El Mozote](#); El Diario de Hoy. October 14, 2020. [Los 4 bloqueos a los archivos militares de El Mozote: lo que hasta hoy sabemos](#); Nodal. October 30, 2020. [Ejército de El Salvador bloquea por sexta vez investigación de masacre en 1981](#).

⁹⁰⁰ IACHR. Press Release 247/20. [IACHR and its Special Rapporteurship for Freedom of Expression Seriously Concerned about the National Defense Ministry's Refusal to Comply with a Court Order for an Inspection of the Archives of El Salvador's Armed Forces](#). October 8, 2020..

594. According to publicly available information, on August 4, the Institute for Access to Public Information ordered the Ministry of Defense to conduct a new search for information on human rights violations at the University of El Salvador between 1970 and 1995, within 50 days.⁹⁰¹

595. In 2019, the IACHR repeatedly expressed its concern about the lack of access to the archives of the Ministry of Defense to investigate crimes committed during the armed conflict. The court decision represents an important step toward the effective exercise of the right of access to information and the right to the truth by the victims, their representatives, and other interested sectors of society.

B. Attacks, threats, and intimidation of journalists and the media

596. The hostile climate toward the work of the press, largely encouraged by the government, intensified in El Salvador during the COVID-19 pandemic. The Office of the Special Rapporteur is particularly concerned about physical attacks, threats and intimidation, and the obstruction of reporting. The Office also received information on alleged monitoring and surveillance of journalists and the interception of telephone communications.⁹⁰²

597. On February 9, during a public event organized by the President of the Republic, Nayib Bukele, several journalists gathered outside the Legislative Assembly and requested access to the building, but were denied by the National Civil Police, who guarded all the entrances and barred the press from access. Initially, the security forces refused to let them in, alleging that they were not carrying their credentials; when they showed their credentials, they were still detained without cause.⁹⁰³

598. The Office of the Special Rapporteur observed numerous threats and acts of intimidation by both the Armed Forces of El Salvador (FAES) and the National Civil Police (PCN) against journalists working during the pandemic. For example, although Executive Decree No. 15 authorized the free movement of journalists and media personnel, police officers warned them in threatening tones that they were prohibited from traveling or that they “should not be out.”⁹⁰⁴ This was due, according to Salvadoran journalists, to the government’s improvisation and lack of clarity in its measures.⁹⁰⁵

599. According to information received by this office, State security forces obstructed journalistic activities on several occasions. On March 22, FAES agents asked for the cell phone of a reporter from Radio Segundo Montes, who was taking pictures on the bypass in the municipality of Jocoaitique, in the department of Morazán and erased all his photos even though he was carrying his press credential.⁹⁰⁶ On July 10, police officers asked a journalist who was taking pictures of the exterior of the Central Reserve Bank for a report on the economy to stop and leave because “no one can stand in front of a building where a minister is present.”⁹⁰⁷

600. On July 2, unidentified individuals forced their way into the home of journalist Julia Gavarrete, of the *Gato Encerrado* portal, in San Salvador, and stole her personal computer. According to available information, she had returned home after covering a press conference at the Presidential Palace and noticed that her work computer was missing. The journalist asserted that the theft was an attempt to intimidate her in response to her critical articles, some of which dealt with the National Government’s pandemic response plans, as well as allegations of wrongdoing and corruption. The Human Rights Institute of the José Simeón Cañas Central

⁹⁰¹ El Mundo. August 3, 2020. [Defensa tiene 50 días para entregar datos de asesinato del padre del vicepresidente de la República](#); El Universitario. August 4, 2020. [IAIP ordena nueva búsqueda de archivos sobre operativos militares con plazo de 50 días](#); Arpas. August 4, 2020. [IAIP ordena a Defensa entregar información sobre intervenciones militares en UES](#).

⁹⁰² IACHR. 178 Period of Sessions. [Audiencia 4. Situación de la libertad de expresión en El Salvador](#). December 3, 2020.

⁹⁰³ Diario 1. February 9, 2020. [PNC acusa a periodistas que cubren convocatoria de Bukele](#); Diario El Pueblo. February 10, 2020. [Periodista saca el pecho y pone quito a policía](#); El Salvador Times. February 14, 2020. [Periodista de TCS por agresión policial: “Lo último que tienen que hacer es atacarnos: estamos trabajando”](#).

⁹⁰⁴ APES. April 7, 2020. [PNC obstruye libre circulación a periodista de Cadena Cristiana de Radio y Televisión CRET](#); APES. April 9, 2020. [PNC intimida y agrede verbalmente a corresponsales de una agencia internacional de noticias](#); APES. April 15, 2020. [Agentes de la PNC amenazan a corresponsal de Radio Victoria](#).

⁹⁰⁵ Knight Center for Journalism in the Americas. April 22, 2020. [Salvadoran government reinforces limits on freedom of expression and the press during COVID-19 pandemic](#)<https://latamjournalismreview.org/es/articulos/gobierno-de-el-salvador-refuerza-limitacion-a-la-libertad-de-expresion-y-de-prensa-durante-pandemia-de-covid-19/>; Artículo 19, Oficina para México y Centroamérica. July 9, 2020. [Informe especial C.O.V.I.D.: Libertad de expresión e información durante pandemia de COVID-19 en México y CA](#).

⁹⁰⁶ APES. March 22, 2020. [FAES restringe ejercicio periodístico a reportero de Radio Segundo Montes](#).

⁹⁰⁷ APES. July 10, 2020. [Agentes de la PNC restringen labor informativa de un periodista freelance](#).

American University (Idhuca) filed a criminal complaint with the Public Prosecutor's Office for the crime of aggravated theft, and described the act as a form of intimidation against the journalist.⁹⁰⁸ On July 13, also, a man entered the apartment of Óscar Luna, editor of *Disruptiva* magazine, and removed two computers and a map of San José Villanueva, the municipality where the magazine has been conducting research on COVID-19 infections.⁹⁰⁹ Columnist, feature writer, and anthropologist Juan Martínez d'Aubuisson, who writes for *El Faro*, reported on social media that on October 12 he was the victim of an armed attack and that, according to "sources from the State apparatus," the incident "was orchestrated from within the government."⁹¹⁰ According to his public account, "the attack was very violent. Four armed men insisted that I throw myself to the ground, without asking for my cell phone or wallet."

601. José Apolonio Tobar, the head of the Office of the Human Rights Ombudsman [*Procuraduría para la Defensa de los Derechos Humanos*] of El Salvador, warned about restrictions on the work of the press by members of the National Civil Police (PNC) and the Armed Forces (FAES) during the COVID-19 pandemic.⁹¹¹ According to the Ombudsman, they have destroyed journalistic material, restricted reporters' ability to ask questions at press conferences, and prevented some officials from being interviewed. The Association of Journalists of El Salvador (APES) has complained about this situation on several occasions.

602. This office also documented incidents where members of the press were physically attacked while working. On March 2, an assistant to the Minister of Health, Ana María Orellana, violently pushed *Sol TV* journalist Jorge Álvarez, who was covering a government vaccination campaign in the city of Osicala (department of Morazán), after he asked her for a statement on the coronavirus situation.⁹¹² On July 31, a *Canal 12* crew was attacked by alleged gang members in the Sierra Morena neighborhood in the city of Soyapango on their way to a press conference.⁹¹³

603. On April 17, journalist Menly Cortez of *El Diario de Hoy* was assaulted by a police officer while photographing an accident involving a tractor-trailer at the Integración traffic circle in San Salvador. As she prepared her equipment and began to take photographs, a police officer grabbed her by the arms to violently remove her from the scene.⁹¹⁴

604. This office was also informed of online attacks on journalists. For example, journalist Yaneth Estrada of *Diario Co Latino* reported that her email, Twitter, and Facebook accounts were hacked. The reporter had already had her social media accounts taken over by hackers in the past and had been the target of online attacks because of her public condemnation of some topical issues.⁹¹⁵

605. Similarly, unknown persons allegedly tried to hack into the email of Krissia Girón, a journalist with the *Asociación de Radiodifusión Participativa de El Salvador* [Participatory Broadcasting Association of El Salvador] (ARPAS) and representative of the *Colectiva de Mujeres Periodistas de El Salvador* [Women Journalists' Collective of El Salvador]. According to the journalist, the hacking attempts occurred after she

⁹⁰⁸ APES. July 8, 2020. [Hurtan equipo de trabajo a periodista de Gato Encerrado](#); ElSalvador.com. July 8, 2020. [Idhuca pide a Fiscalía indague robo de laptop a periodista que reveló posible corrupción del Gobierno](#); Gato Encerrado. July 9, 2020. [Idhuca presenta aviso a Fiscalía por hurto de laptop a periodista de Gato Encerrado](#). Knight Center for Journalism in the Americas. July 12, 2020. [NGOs call for authorities to investigate the computer theft of Salvadoran journalist](#)<https://latamjournalismreview.org/es/articles/organizaciones-civiles-piden-a-autoridades-investigar-robo-de-computadora-de-periodista-salvadorena/>; Committee to Protect Journalists (CPJ). July 22, 2020. [Journalist Julia Gavarrete's home robbed, laptop stolen in El Salvador](#).

⁹⁰⁹ El Faro. July 30, 2020. [Bukele amenaza al periodismo](#); Diario 1. August 7, 2020. [La SIP condena amenazas del gobierno contra la prensa en El Salvador](#).

⁹¹⁰ ElSalvador.com. October 16, 2020. [Columnista salvadoreño de El Faro denuncia asalto armado y señala al Gobierno](#).

⁹¹¹ Procuraduría para la Defensa de los Derechos Humanos de El Salvador. April 2, 2020. [Pronunciamiento Del Señor Procurador Para La Defensa De Los Derechos Humanos, José Apolonio Tobar Serrano, En El Contexto De Las Medidas De Restricción Temporal Del Ejercicio De Los Derechos De Reunión Y Libertad De Tránsito, A Fin De Contener La Pandemia COVID-19](#); Deutsche Welle (DW). April 3, 2020. [El Salvador: denuncian restricciones a la prensa durante emergencia por coronavirus](#); La Vanguardia. April 3, 2020. [Denuncian restricciones a la prensa de El Salvador por la Policía y Ejército](#).

⁹¹² APES. March 2, 2020. [Restringen con violencia trabajo de periodista de SolTV](#); El Mundo. March 10, 2020. [Ley para proteger a los periodistas engavetada desde hace 17 meses](#).

⁹¹³ HPD Noticias. July 31, 2020. [Pandilleros atacan a equipo de periodistas de canal 12](#); APES. August 2, 2020. [Amenazan y agreden a equipo de periodistas de televisión](#).

⁹¹⁴ ElSalvador.com. April 17, 2020. [Periodista denuncia agresiones por parte de agente policial mientras realizaba trabajo fotográfico](#); Revista La Brújula. April 17, 2020. [PNC agrede a mujer periodista](#); APES. April 17, 2020. [Agente de la PNC obstruye labor de fotoperiodistas de LPG y EDH](#).

⁹¹⁵ APES. April 15, 2020. [Hackean cuentas de redes sociales y correo de periodista de Diario Co Latino](#).

published several articles on the spike in violence against women during the national COVID-19 emergency, refuting data offered by President Nayib Bukele on national television about an alleged 61% reduction in femicides nationwide.

C. Disparagement of journalists and independent media

606. During 2020, the Office of the Special Rapporteur continued to follow up on the stigmatizing statements made by high-ranking authorities against press workers and independent media on social networks, and even by the President during press conferences and national broadcasts. According to the information received, these types of accusations and statements typically follow publications or journalistic investigations documenting alleged cases of government corruption, the arbitrary use of public funds, secret negotiations with unlawful groups, or the conduct of members of the executive branch. These acts are also followed daily by thousands of replies on social media in anonymous campaigns.⁹¹⁶

607. This office has documented smear campaigns, disparagement, and stigmatizing statements mainly against independent journalists, media outlets with editorial stances that run counter to the official line, or media outlets that expose abuses of authority, nepotism, mismanagement of the state of emergency, and corruption, among other issues of great public interest.⁹¹⁷ The media outlets *El Faro*, *Revista Factum*, *El Diario de Hoy*, and *La Prensa Gráfica* have been especially harassed and stigmatized by the president and government officials because of their articles, coverage, and investigative reporting.⁹¹⁸ “Reporters on the take are hard to reach,”⁹¹⁹ “if anyone believes that [...] you do real journalism,”⁹²⁰ “Don’t you feel sad that you have fallen so low and thrown your whole career away?”⁹²¹ “Elections are coming [...] Everyone is starting to take sides. Which you have always done,”⁹²² “Are you going to apologize for continuing to share fake news, or have you made a habit of it?”⁹²³ are some of the statements made by President Nayib Bukele to the media that criticize his administration. He has also repeatedly amplified comments criticizing journalists from these media outlets, including a comment that referred to journalists from *El Faro* as “trash.”⁹²⁴

608. On May 31, the head of state verbally attacked journalists from *El Faro* and *Factum* during a press conference. “I already know who finances you *Factum*, *El Faro*. We already know who it is, we know what you are looking for, we know what you want. You’re free, do it! What you tried to do to the country will weigh on your hearts, your souls, and your lives,” he said.⁹²⁵

609. On September 24, in a national broadcast, the president singled out the media outlets *El Faro*, *Revista Factum*, *Gato Encerrado*, and *La Prensa Gráfica*, accusing them of lying and “attacking” his administration. He also announced that *El Faro* was under investigation for money laundering.⁹²⁶ According to the news portal, although they have been under a tax audit by the Internal Revenue Service of the Ministry of Finance since July 2020, the authorities had never informed them that they were being investigated for money laundering. According to the information received, the audit included a request for the media outlet’s complete minute book, project execution reports, and even the names of subscribers.

⁹¹⁶ IACHR. 178 Period of Sessions. [Audiencia 4. Situación de la libertad de expresión en El Salvador](#). December 3, 2020.

⁹¹⁷ APES. February 9, 2020. [Amenaza y difamación contra periodista de EDH](#); APES. May 21, 2020. [Acoso digital contra periodista de El Faro luego de preguntar en conferencia de prensa](#); APES. June 11, 2020. [Secretario de prensa ataca a radio YSUCA](#); APES. July 15, 2020. [Periodista de FOCOS TV recibe acoso digital vía Twitter](#); APES. August 10, 2020. [Funcionario público ataca y descalifica a periodista de EDH](#); APES. August 10, 2020. [Periodista de Gato Encerrado es víctima de acoso digital](#).

⁹¹⁸ El Salvador Gram. February 20, 2020. [Bukele acusa a Factum, El Faro y EDH de «tergiversar» sus palabras: «¿No se sienten tristes de haber caído tan bajo?»](#), dice; APES. June 26, 2020. [Presidente Bukele lanza otro ataque digital los periódicos El Faro, Factum, EDH y LPG](#); La Prensa Gráfica. August 6, 2020. [Condenan amenazas a la prensa de El Salvador por Gobierno de Bukele](#).

⁹¹⁹ Twitter account of Nayib Bukele, President of El Salvador (@nayibbukele). [February 20, 2020](#).

⁹²⁰ Twitter account of Nayib Bukele, President of El Salvador (@nayibbukele). [June 25, 2020](#).

⁹²¹ Twitter account of Nayib Bukele, President of El Salvador (@nayibbukele). [February 20, 2020](#).

⁹²² Twitter account of Nayib Bukele, President of El Salvador (@nayibbukele). [June 25, 2020](#).

⁹²³ Twitter account of Nayib Bukele, President of El Salvador (@nayibbukele). [May 3, 2020](#).

⁹²⁴ Committee to Protect Journalists (CPJ). September 4, 2020. [InSight Crime’s Héctor Silva Avalos subject of alleged investigation, presidential tweets](#).

⁹²⁵ APES. June 1, 2020. [Presidente Bukele ataca de nuevo a periodistas de El Faro y Factum](#).

⁹²⁶ El Faro. September 25, 2020. [Bukele anuncia en cadena nacional que Hacienda investiga a El Faro por lavado de dinero](#); Factum. September 25, 2020. [Bukele ataca a la prensa en cadena nacional al mismo tiempo que dice defenderla](#); Committee to Protect Journalists (CPJ). September 30, 2020. [Without offering proof, Salvadoran President Bukele alleges money laundering investigation into El Faro news website](#).

610. According to publicly available information, on August 9, the president of the Autonomous Executive Port Commission (CEPA) launched a scathing attack on Twitter against journalist Jorge Beltrán of *El Diario de Hoy*. “Look at you, you paid hack with a complex [...] you should be treated like trash,” “you should be ashamed to be called a journalist” (sic), “you are pitiful,” were some of the statements the CEPA head made against the journalist.⁹²⁷

611. The office also learned of the social media harassment directed against *Gato Encerrado* journalist Carmen Valeria Escobar, due to her investigations into several cases that revealed corruption by national executive branch officials.⁹²⁸ The journalist was allegedly threatened and insulted on social media by the congressional candidate of the *Nuevas Ideas* party, Carlos Hermann Bruch, and by pro-government users. Escobar’s mother was also allegedly subjected to a polygraph test and forced by her superiors to leave her job in a public office of the executive branch, eight days after her daughter published an investigation on how the national Minister of Health allegedly purchased government supplies from a company owned by her cousins.

612. As this office was able to document, the government’s official social media—such as the Twitter accounts of the Office of the President’s Press Secretary and the National Council for the Comprehensive Care of Persons with Disabilities (CONAIPD)—reportedly selectively blocked certain independent journalists and media outlets critical of the government’s actions.⁹²⁹ President Nayib Bukele also adopted this practice on his Twitter account.⁹³⁰

613. In September 2020, *Fundación Gabo* sent the then Special Rapporteur for Freedom of Expression, Edison Lanza, a letter signed by the members of its Board of Governors and some 500 journalists, writers, media, and non-governmental organizations from around the world, condemning the escalating attacks against the independent press and the rule of law in El Salvador, and requesting that the office specially monitor this situation and take a public position on the matter.⁹³¹

614. The Office of the Special Rapporteur for Freedom of Expression voiced concern about the unwarranted stigmatization of the media and journalists in El Salvador by officials who, instead of engaging in public debate or accountability, use their positions of power to disparage.⁹³² It also warned about the government’s persistent vilification of the press and the retaliatory measures taken against critical media.⁹³³

615. On August 13, the Legislative Assembly of El Salvador authorized the creation of a special commission to investigate the harassment of journalists. The group was established to investigate cases of harassment and threats to the press by officials, State agents, and public servants because of their work or editorial line, and to investigate the alleged use of state funds to finance digital attacks on opponents.⁹³⁴ On November 12, the commission presented its final report, which was approved by the full legislature,

⁹²⁷ Twitter account of Federico Anliker López (@anliker1980). [August 9, 2020](#); Escenarios. [“Das pena caga tinta”: Presidente de Cepa arremete contra periodista por publicación de remodelación de oficina por \\$88 mil](#); El Salvador. August 10, 2020. [APES: El ataque del presidente de CEPA a periodista es intolerancia a la fiscalización](#); YSUCA. August 10, 2020. [APES denuncia nuevas agresiones contra el gremio de periodistas](#)

⁹²⁸ Red Salvadoreña de defensoras de derechos humanos / Facebook. [August 12, 2020](#); Twitter account of Focos TV (@focostv). [December 3, 2020](#); IACHR. 178 Period of Sessions. [Audiencia 4. Situación de la libertad de expresión en El Salvador](#). December 3, 2020.

⁹²⁹ APES. May 15, 2020. [Secretaría de Prensa de la Presidencia bloquea a periodista de la cuenta de Twitter](#); APES. May 27, 2020. [Secretaría de Prensa bloquea de Twitter a presidenta de APES](#); APES. April 23, 2020. [CONAIPD bloquea de sus redes sociales a periodista de Radio Sumpul](#).

⁹³⁰ APES. June 29, 2020. [Presidente bloquea de su cuenta de Twitter a periodista de EDH](#); APES. June 29, 2020. [Presidente bloquea de su cuenta de Twitter a periodista de Red Informativa Sol](#).

⁹³¹ Fundación Gabo. September 29, 2020. [Carta abierta y urgente al Relator Especial para la Libertad de Expresión](#); La Nación. September 29, 2020. [Cerca de 600 periodistas de 45 países firman una carta en defensa de la libertad de prensa y repudiaron ataques de El Salvador contra medios de esa Nación](#); Infobae. September 30, 2020. [Cientos de periodistas de América Latina pidieron la intervención de la OEA ante los ataques de Nayib Bukele a la prensa](#); El Faro. September 30, 2020. [Periodistas e intelectuales de 47 países condenan ataques al periodismo independiente en El Salvador](#).

⁹³² Twitter account of Special Rapporteur Edison Lanza (@EdisonLanza). [August 10, 2020](#).

⁹³³ YouTube channel of Canal 33 El Salvador. [#8EnPuntoJ “No se puede comparar el poder de comunicación que tiene un presidente con un periodista”](#). August 20, 2020; Twitter account of Office of the Special Rapporteur for Freedom for Freedom of Expression of the IACHR (@RELE_CIDH). [August 24, 2020](#).

⁹³⁴ La Prensa Gráfica. August 12, 2020. [Asamblea Legislativa acuerda Comisión Especial para la investigación del acoso a periodistas](#); La Vanguardia. August 13, 2020. [El Congreso salvadoreño autoriza comisión para investigar acoso a la prensa](#); Deutsche Welle (DW). August 13, 2020. [Parlamento investigará acoso a la prensa en El Salvador](#); Asamblea Legislativa de El Salvador. August 13, 2020. [Crean Comisión Especial que investigará acoso a periodistas por su trabajo o línea editorial](#).

concluding that “the President of the Republic, Nayib Bukele, and several of his senior officials,” appear to be the main perpetrators of the systematic attacks on journalists, for which public resources were allegedly used.⁹³⁵ The commission stated that, taking advantage of their positions, they had “intimidated” and “denigrated” the journalists’ work, “suggesting the probable commission of acts constituting crimes.” It further noted that the audit of *El Faro* could amount to an indirect restriction on the right to freedom of expression and the press. Finally, they recommended that Nayib Bukele, his ministers, deputy ministers, and other officials “cease the harassment, discrimination, insults, and mistreatment of journalists.” The investigation, which is not binding, was carried out by the special commission without the presence of pro-government members of congress and was mainly based on interviews with journalists from various media and representatives of national and international associations.

616. Some of this had been observed by the IACHR during its on-site visit to El Salvador from December 2 to 4, 2019. During that visit, the Commission received information citing several concerns about freedom of expression related to stigmatizing speech on social media targeting human rights defenders, the media, and journalists.⁹³⁶

617. Based on the facts observed in El Salvador during 2020, this Office of the Special Rapporteur reminds the State that:

618. **The transparency and accountability of public authorities strengthen democratic systems.** Principle 4 of the Declaration of Principles on Freedom of Expression of the IACHR states that “[a]ccess to information held by the state is a fundamental right of every individual. States have the obligation to guarantee the full exercise of this right. This principle allows only exceptional limitations that must be established by law in case of a real and imminent danger that threatens national security in democratic societies.” In the context of the pandemic, the IACHR noted that States may give priority to requests for information related to COVID-19 but should not establish general limitations on other requests. If deadlines are extended, the States must provide reasons for the denial, establish a time frame for compliance with the obligation, and allow decisions to be appealed.⁹³⁷ The Commission also reminded States that they have the obligation to allow all media access to official press conferences, without discrimination based on editorial line, except when necessary and proportional measures are warranted to protect the health and safety of the media.⁹³⁸

619. **Attacks and assaults on the press violate the right to freedom of expression in both its individual and collective dimensions and cannot be tolerated in a democratic society.** The Office of the Special Rapporteur recalls that Principle 9 of the Declaration of Principles on Freedom of Expression of the IACHR states that “[t]he murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the state to prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive due compensation.”

620. **Public authorities are called upon to maintain a discourse conducive to public deliberation and freedom of expression.** Public servants have a duty to ensure that their speech does not infringe on the rights of those who contribute to public deliberation through the expression and dissemination of their thoughts—including journalists, the media, and human rights organizations—and must consider the context in which they express themselves. It is also especially important that they condemn attacks against the press and promote the role that the media play in democratic societies. According to the Inter-American Court of Human Rights, these statements by public officials could constitute an indirect restriction on the right to freedom of expression.⁹³⁹ The Resolution “Pandemic and Human Rights” adopted by the IACHR similarly

⁹³⁵ Yahoo! Noticias. November 12, 2020. [El Gobierno salvadoreño ataca a periodistas con fondos públicos, según el Congreso](#); Gato Encerrado. November 13, 2020. [Asamblea determina que en El Salvador se viola el derecho de libertad de expresión y prensa](#); Infobae. November 13, 2020. [Piden a gobierno salvadoreño el cese de acoso a periodistas](#); El Faro. November 16, 2020. [Asamblea: “Bukele y sus funcionarios son los principales actores de acoso contra periodistas”](#).

⁹³⁶ IACHR. [Press Release 335/19. IACHR presents its preliminary observations following its in loco visit to El Salvador](#):<http://www.oas.org/es/cidh/prensa/comunicados/2019/335.asp> December 27, 2019..

⁹³⁷ IACHR. Resolution No. 1/20. [Pandemic and Human Rights in the Americas](#). April 10, 2020. P. 14.

⁹³⁸ IACHR. Resolution No. 1/20. [Pandemic and Human Rights in the Americas](#). April 10, 2020. P. 13.

⁹³⁹ I/A Court H. R. [Case Ríos et al v. Venezuela. Preliminary Objections, Merits, Reparations and Costs](#). Judgment of January 28, 2009. Serie C No.194. Par. 139.

states that public servants should take special care when making statements and declarations about the evolution of the pandemic and be aware that they are exposed to heightened scrutiny and public criticism, even during special periods.

UNITED STATES

621. During 2020 in the United States, journalists and media outlets continued to face conditions adverse to the exercise of freedom of expression, characterized by an increase in stigmatizing statements against the media from the president and senior authorities as a result of the COVID-19 health crisis, social protest, and the elections. The year 2020 was a year in which the number of journalists and/or media workers attacked and arrested increased exponentially. A significant number of violations of the right to freedom of expression were reported by the media during coverage of the social protests that exploded after the death of George Floyd in police custody on May 25, 2020, as well as during coverage of the presidential campaign and elections. The Office of the Special Rapporteur underscores that the constant statements from the president disparaging the media produced a hostile climate among supporters of the administration and broad sectors of society.

622. The Office of the Special Rapporteur is also concerned at the excessive use of force during protests and the attacks perpetrated by security forces on peaceful demonstrators legitimately exercising their rights to freedom of expression and to peaceful and unarmed assembly and association.

623. Additionally, the Office of the Special Rapporteur highlights with concern the continued issuing of subpoenas ordering journalists reveal their sources, turn over documents or materials, or appear as witnesses in matters that they investigated or reported on. It also expresses its concern at the rise in civil defamation suits seeking substantial awards against journalists and media outlets critical of the administration. Additionally, the Office of the Special Rapporteur is concerned at the charges brought under the Espionage Act against Julian Assange for the publication of "government secrets" that was the basis for the United States' request for extradition of the Wikileaks founder. Nevertheless, this Office highlights the legal and legislative progress made, both federally and at the state level, with favorable decisions handed down protecting freedom of expression and legislative initiatives aiming to protect and guarantee this right. The Office of the Special Rapporteur notes that time and again, the judiciary has fulfilled its role as protector of the right to freedom of expression.

A. Progress

624. Both the House of Representatives and the Senate have proposed different legislative resolutions or initiatives to protect the exercise of freedom of the press and access to public information, as well as to ensure the existence of a free press.

625. On May 21, 2020, several senators submitted a draft resolution to commemorate World Press Freedom Day by declaring "the importance of a free press to an informed, transparent, and safe society; condemn[ing] threats to freedom of the press and free expression around the world; and, in remembrance of journalists who lost their lives carrying out their work [and the importance of investigating crimes against journalists], call[ing] for actions by the President, the Department of State, and foreign governments to protect and promote freedom of expression globally."⁹⁴⁰

626. Likewise, several members of the House of Representatives submitted a draft resolution in support of freedom of the press and against attacks on journalists in the framework of the coverage of protests over the death of George Floyd. The resolution: a) calls on law enforcement to protect freedom of the press and refrain from targeting journalists and media workers; b) calls on government entities to clarify that credentialed press are exempt from curfews enacted in response to protests and public demonstrations; c) stresses the need for accountability where law enforcement entities or protesters violate the Constitution, laws, or regulations in their treatment of journalists and media crews during protests; and d) reaffirms the centrality of freedom of the press to supporting democracy, exposing corruption, and promoting good governance.⁹⁴¹

⁹⁴⁰ United States. Congress (Senate). May 21, 2020. [S.Res.600 - A resolution recognizing widening threats to freedom of the press and expression around the world, reaffirming the centrality of a free and independent press to the health of free societies and democracies, and reaffirming freedom of the press as a priority of the United States in promoting democracy, human rights, and good governance in commemoration of World Press Freedom Day on May 3, 2020](#). As of the date of this report, the bill had not been passed.

⁹⁴¹ United States. Congress (House of Representatives). June 18, 2020. [H.Res.1009 - Recognizing the threats to press freedom in the United States in the wake of protests following the killing of George Floyd, an unarmed Black man, by police in Minneapolis on May 25, 2020, reaffirming the centrality of a free and independent press to the health of democracy, and reaffirming freedom of the press as a](#)

Likewise, a group of senators proposed a resolution condemning the violence committed against people exercising the right to freedom of expression and peaceful assembly, including journalists, and asked local, state, and federal authorities to take measures to ensure that members of the media are able to do their work safely, without interference, without censorship, and without threats of violence or physical harm.⁹⁴²

627. The Office of the Special Rapporteur also underscores the importance of the draft law entitled the Jamal Khashoggi Press Freedom Accountability Act of 2020, which was introduced by a group of members of the House of Representatives on October 20, 2020, as well as by a number of senators on December 9, 2020. The bill proposes establishing additional sanctions for those who commit grave human rights violations against journalists anywhere in the world and publishing the names of those responsible for violence against journalists and members of the media. The legislation also proposes amending the 1961 Foreign Assistance Act to include online harassment and surveillance, in addition to direct physical violence, as actions that could constitute human rights violations.⁹⁴³

628. In the courts, the Office of the Special Rapporteur highlights several rulings in favor of the right to freedom of expression and access to public information.

629. On March 10, 2020, in the case *Committee on the Judiciary v. Department of Justice*, the United States Court of Appeals for the District of Columbia Circuit upheld the ruling of the District Court ordering the Department of Justice to allow the House of Representatives Judiciary Committee access to two specific categories of grand jury materials that had been edited /removed from the special prosecutor report on the investigation into Russian interference in the 2016 presidential elections (the Mueller report) for the purposes of confidentiality. Although the Committee had received a version with fewer redactions than the public version, specific sections of the report were still redacted. The Court of Appeals confirmed the importance of the right to access to information, finding that the Committee's "particularized need" to access information in order to reach a determination on the conduct of the President with regard to the facts that were being investigated outweighed the grand jury secret interests in this case. The Department of Justice asked the Supreme Court of the United States through a writ of certiorari to review the ruling, and the request was admitted by the Supreme Court on July 2, 2020.⁹⁴⁴

630. Likewise, on July 13, 2020, the Dutchess County Supreme Court of the State of New York annulled the temporary restraining order on Mary L. Trump (President Donald Trump's niece) and denied a motion for a preliminary injunction filed by the president's brother against her and against Simon & Schuster. The motion was filed to prevent them from publishing, printing, or distributing any book or part of a book titled *Too Much and Never Enough, How My Family Created the World's Most Dangerous Man*, in any media containing descriptions or stories of Ms. Trump's relationship with the president or other of her relatives.

631. The Supreme Court found that the plaintiff had not met any of the requirements for a preliminary injunction, such as irreparable harm or the likelihood of success on the merits and determined that the agreement preventing Ms. Trump from discussing family matters was no longer relevant for the case, as what was at issue now involved the president of the United States, who is seeking reelection. It was therefore in the public interest, and the people's right to hear about such matters had to be protected.⁹⁴⁵

[priority of the United States in promoting democracy, human rights, and good governance](#). As of the date of this report, the bill had not been passed

⁹⁴² United States. Congress (Senate). June 15, 2020. [S.Res.622 - A resolution condemning attacks against members of the media and reaffirming the centrality of a free and independent press and peaceful assembly to the health of democracy in the United States](#). As of the date of this report, the bill had not been passed.

⁹⁴³ United States. Congress (House of Representatives). October 20, 2020. [H.R.8641 - Jamal Khashoggi Press Freedom Accountability Act of 2020](#). (Senate). December 9, 2020. [S.4992 - Jamal Khashoggi Press Freedom Accountability Act of 2020](#). As of the date of this report, the bills were pending debate. PEN America. October 20, 2020. [PEN America Welcomes Rep. Schiff's Bill Promoting Accountability for Human Rights Violations Against Journalists](#).

⁹⁴⁴ United States Court of Appeals for the District of Columbia Circuit. March 10, 2020. [Committee on the Judiciary v. United States Department of Justice, No. 19-5288 \(D.C. Cir. 2020\)](#). Press From. November 20, 2020. [Supreme Court postpones hearing on congressional effort to obtain secret Mueller material](#); The Washington Post. November 20, 2020. [Supreme Court postpones hearing on congressional effort to obtain secret Mueller material](#).

⁹⁴⁵ United States. Supreme Court- State of New York, Dutchess County. July 13, 2020. [Trump v. Mary L. Trump & Simon & Schuster, Inc., 2020 N.Y. Slip Op. 20175 \(N.Y. Sup. Ct. 2020\)](#).

632. The Office of the Special Rapporteur also highlights the ruling of the Circuit Court of Henrico County of June 24, 2020, dismissing a lawsuit filed by a member of Congress against Twitter for allegedly false and defamatory statements from three Twitter accounts, two anonymous accounts among them. The lawsuit was dismissed based on article 230(c)(1) of the Communications Decency Act which grants immunity to such platforms for the content published by third parties.⁹⁴⁶ This Office also underscores that on November 12, 2020, the United States District Court for the Northern District of Georgia Atlanta Division dismissed the lawsuit filed by Donald J. Trump for President, Inc. for defamation against a CNN article reporting that the Trump campaign was considering seeking Russia's help for the 2020 elections. According to the lawsuit, CNN acted with actual malice because it knew the article was false. The Court determined that while the article referred to facts and not opinions, it was not defamatory because the applicable standard of actual malice (applicable because the president was a public figure) could not be proven. That is, it could not be proven that CNN was aware of the falseness or acted in gross negligence in seeking out the truth or falseness of the information at the time of publication.⁹⁴⁷

633. Lastly, this Office highlights the October 9, 2020, decision of the United States Court of Appeals for the Ninth Circuit restoring a district court's injunction prohibiting federal agents from dispersing, resting, or using physical force against journalists and legal observers during protests in the city of Portland. The lawsuit was submitted by journalists, photographers, and legal observers who alleged that the security forces attacked journalists and legal observers in violation of their first and fourth amendment rights. The Court underscored the importance of the right to protest and the broadly-accepted importance of the media's coverage of it.⁹⁴⁸

B. Stigmatizing statements

634. The year 2020 saw a continuation of the pattern of stigmatizing statements from senior government officials toward the media and journalists, including during official events, press conferences, political rallies, and through their social media accounts. This Office observes that the number of attacks against the media even increased with coverage of the COVID-19 pandemic and the management of the crisis by the president's administration, social protests, and because it was an election year and the elections were held on November 3, 2020.⁹⁴⁹

635. According to the database created by the U.S. Press Freedom Tracker, since President Trump announced he would run for president of the United States on June 16, 2015, during his four years in power, and through January 8, 2021, the date on which Twitter permanently suspended his account, he had posted at least 2,520 tweets against the media criticizing his administration, calling them "enemies of the people" at least 56 times, and calling them "fake news" more than 930 times. Through Twitter alone, the president posted at least 623 tweets during 2020 insulting or demeaning the work of journalists.⁹⁵⁰ The president continued to insult the media and different journalists on a number of occasions, calling them "real garbage," "dumb bastards," "a true dummy who was thrown off Network News like a dog,"⁹⁵¹ "dumber than hell,"⁹⁵²

⁹⁴⁶ United States. Circuit Court of Henrico County. June 24, 2020. [Nunes v. Twitter, Inc. No. CL19-1715-00](#).

⁹⁴⁷ United States District Court for the Northern District of Georgia Atlanta Division. November 12, 2020. [Donald J. Trump for President, Inc. v. CNN Broadcasting, Inc. No. 1:20-cv-01045](#).

⁹⁴⁸ United States Court of Appeals for the Ninth Circuit. October 9, 2020. [Index Newspapers v. City of Portland. No. Case No. 3:20-cv-01035-SI](#). See the Columbia University Global Freedom of Expression website for additional jurisprudence. Available for consultation at: <https://globalfreedomofexpression.columbia.edu/cases/>; AP. October 12, 2020. [Court: U.S. can't target reporters at Portland protests](#).

⁹⁴⁹ U. S. Press Freedom Tracker. October 1, 2020. [Rather than denounce attacks on press, Trump doubles down on negative tweets](#); U.S. Press Freedom Tracker. January 11, 2021. [The Last Trump Tweet Against the Media](#).

⁹⁵⁰ U.S. Press Freedom Tracker. January 11, 2021. [The Last Trump Tweet Against the Media](#); U.S. Press Freedom Tracker database of Trump's Negative Tweets about the Press. Available for consultation at: <https://docs.google.com/spreadsheets/d/1uNA6nsgcRhhQ0b6USsMNzhYLMfuDRSMhbGZNZ00WkHk/edit#gid=0>

⁹⁵¹ "Lyn' Brian Williams of MSDNC, a Comcast Scam Company, wouldn't know the truth if it was nailed to his wooden forehead. Remember when he lied about his bravery in a helicopter? Totally made up story. He's a true dummy who was thrown off Network News like a dog. Stay tuned!". Twitter account of President Donald Trump @realDonaldTrump. April 30, 2020. Account suspended since January 8, 2021. Available for consultation at: Mediaite. April 30, 2020. [Trump Blasts Don Lemon, Joe Scarborough and Brian Williams in Late Night Frenzied Twitter Scream](#).

⁹⁵² "I must admit that Lyn' Brian Williams is, while dumber than hell, quite a bit smarter than Fake News @CNN "anchorman" Don Lemon, the "dumbest man on television". Then you have Psycho Joe "What Ever Happened to Your Girlfriend?" Scarborough, another of the low I.Q. individuals!". Twitter account of President Donald Trump @realDonaldTrump. April 30, 2020. Account suspended since

“self-styled reporters,” “dishonest,” “corrupt,” “they really do a lot of damage to the country,” the “opposition party,” and “partners of the Democratic party.” The main targets of the president’s attacks on the media were CNN, *The New York Times*, MSNBC/NBC, Fox News (some of its journalists), *The Washington Post*, ABC, and PBS, among others.⁹⁵³

636. Daily press conferences began again on March 16, 2020, to provide information on the activities of the COVID-19 working group. During these press conferences, the president relaunched his direct attacks on the media that was criticizing his administration’s management of the health and economic crisis caused by COVID-19. During a televised press conference on March 19, the president said that the American media was on China’s side when they criticized him for calling COVID-19 “the China virus.” He specifically mentioned newspapers like *The Wall Street Journal*, *The New York Times*, and *The Washington Post*, and said their coverage of the pandemic was “more than fake news, it was corrupt news”.⁹⁵⁴ Likewise, on March 25, the president posted on his Twitter account that the media were the ones pressuring to maintain restrictions to limit the spread of the coronavirus for as long as possible—even though these restrictions were supported by experts—in order to affect his chances at reelection.⁹⁵⁵

637. Trump also reacted aggressively against the media in a series of press conferences in response to questions from journalists about the health crisis and his administration’s management of it. For example, on March 20, after he was asked what message he had for Americans concerned about the coronavirus, the president attacked NBC news journalist Peter Alexander, saying: “I’d say that you’re a terrible reporter, that’s what I’d say,” and “I think it’s a very nasty question.” On March 30, he attacked CNN journalist Jim Acosta after he asked a question about per capita coronavirus testing in the United States and his opinion on criticism of him for not caring about the coronavirus. Trump called it a “nasty, snarky question.” The president reacted similarly on April 1, when PBS journalist Yamiche Alcindor sought clarity about President Trump’s comments on the governors requesting medical equipment they did not actually need. He said “that’s a nasty, snarky question.” On April 6, he attacked two journalists in comments to Fox News journalist Kristen Fisher in response to her question about the lag in hospitals receiving COVID-19 test results, saying: “You should say ‘congratulations, great job,’ instead of being so horrid in the way you ask a question.” He also called ABC reporter and White House Correspondents’ Association President Jon Karl a “third-rate reporter” who will “never make it.” He also said of *New York Times* journalist Maggie Haberman “She is a third rate reporter who has nothing going. A Fake News ‘journalist’.”⁹⁵⁶ Trump also said that with social distancing, the media was much more agreeable, and that the number of journalists in the briefing room should be reduced drastically, by 75% or 80%, to leave only “two or three that I like in this room.”⁹⁵⁷

638. Also, in the framework of the coverage of protests over the death of George Floyd, police abuse against African-Americans, and racial injustice, the president said the “lamestream media” was doing everything in its power to foment hate and anarchy and that “as long as everybody understands what they are doing, that they are FAKE NEWS and truly bad people with a sick agenda, we can easily work through them to GREATNESS.”⁹⁵⁸ He also accused the “Far Left Fake News Media” of having no problem with the pandemic

January 8, 2021. Available for consultation at: Mediaite. April 30, 2020. [Trump Blasts Don Lemon, Joe Scarborough and Brian Williams in Late Night Frenzied Twitter Scream](#).

⁹⁵³ U.S. Press Freedom Tracker. January 11, 2021. [The Last Trump Tweet Against the Media](#); Committee to Protect Journalists (CPJ). April 16, 2020. [The Trump Administration and the Media](#).

⁹⁵⁴ The Washington Post. March 19, 2020. [Opinion: Trump’s latest attack on the media is more heinous than usual](#); Committee to Protect Journalists (CPJ). April 16, 2020. [The Trump Administration and the Media](#).

⁹⁵⁵ The Hill. March 25, 2020. [Trump charges media wants businesses closed to defeat him](#); The Washington Post. March 26, 2020. [When the president is the problem](#).

⁹⁵⁶ MSNBC. March 20, 2020. [@peteralexandertv responds to Pres. Trump’s insults during press briefing](#); The Guardian. April 1, 2020. [That’s a nasty, snarky question: Trump’s media assault rages on in midst of coronavirus crisis](#); The Guardian. April 1, 2020. [Trump reacting to questions about his handling of the coronavirus crisis](#); Reporters Without Borders (RSF). April 8, 2020. [RSF calls on Trump to end attacks on journalists, encourages news outlets to assess coverage of COVID-19 briefings](#)<https://rsf.org/es/noticias/eua-coronavirus-rsf-instaurump-dejar-de-atacar-los-periodistas-y-los-medios-que-evaluen-las-ruedas>; Yahoo News. October 17, 2020. [Trump berates reporters during coronavirus briefing: ‘You will never make it’](#).

⁹⁵⁷ The Guardian. April 1, 2020. [Trump reacting to questions about his handling of the coronavirus crisis](#); Committee to Protect Journalists (CPJ). April 16, 2020. [The Trump Administration and the Media](#).

⁹⁵⁸ “The Lamestream Media is doing everything within their power to foment hatred and anarchy. As long as everybody understands what they are doing, that they are FAKE NEWS and truly bad people with a sick agenda, we can easily work through them to GREATNESS”. Twitter account of President Donald Trump @realDonaldTrump. May 31, 2020. Account suspended since January 8, 2021.

“with the Rioters & Looters” destroying Democrat-run cities, but criticizing his big rallies because of COVID-19.⁹⁵⁹

639. The president also attacked infectious disease experts like Anthony Fauci, the epidemiologist and director of the National Institute of Allergy and Infectious Diseases after Fauci criticized Trump’s campaign for taking some of his comments out of context in an advertisement. During a press conference with journalists in October 2020, Trump called Fauci a “disaster,” saying “He’s been here for 500 years,” “People are tired of hearing Fauci and these idiots.”⁹⁶⁰ Doctor Fauci, who was also an advisor to the COVID-19 working group, pushed back on false, erroneous, or deceptive information shared by the president on issues related to the pandemic,⁹⁶¹ garnering criticism from Trump.

640. Additionally, during the presidential campaign, the president blamed several media outlets (ABC, Fox, and the *Times*) of wanting to hurt his campaign, accusing them of conducting “fake” surveys.⁹⁶² Also, on October 19 during a rally in Arizona, he said CNN only reported on the pandemic to “talk everybody out of voting,” but “People aren’t buying it,” calling them “poor bastards.”⁹⁶³

641. Likewise, on January 24, 2020, Secretary of State Mike Pompeo criticized veteran reporter Mary Louise Kelly, with NPR’s program “All Things Considered,” saying in a formal statement from the State Department that the media was “unhinged.” The journalist interviewed Pompeo on the record about the Trump administration’s policies toward Iran and Ukraine. According to public information, Pompeo expressed anger and used profane language toward the journalist after the interview, expressing his anger at the questions over the Ukraine episode. In a formal statement from the Secretary of State, he said the journalist had violated the basic rules of the interview and that it was “shameful that this reporter chose to violate the basic rules of journalism and decency,” adding that it was “no wonder that the American people distrust many in the media when they so consistently demonstrate their agenda and their absence of integrity.”⁹⁶⁴ Something similar happened in October 2020 when President Trump cut off an interview with journalist Lesley Stahl on the program “60 Minutes” because of the nature of the questions she was asking him, after which he attacked her on Twitter.⁹⁶⁵

642. In this context of stigmatizing statements, supporters of President Trump have also acted with hostility toward media outlets that he has publicly demeaned. During his administration, the terms the president used to insults and denigrate the media have not only eroded the credibility of the press in the eyes of his faithful supporters,⁹⁶⁶ but also made journalists and employees of certain media outlets the targets of attacks while doing their work. This has been the case not only during campaign rallies but also during the

Available for consultation at: U.S. Press Freedom Tracker. October 1, 2020. [Rather than denounce attacks on press, Trump doubles down on negative tweets.](#)

⁹⁵⁹ ““The Far Left Fake News Media, which had no Covid problem with the Rioters & Looters destroying Democrat run cities, is trying to Covid Shame us on our big Rallies. Won’t work!”. Twitter account of President Donald Trump @realDonaldTrump. June 15, 2020. Account suspended since January 8, 2021. Available for consultation at: U.S. Press Freedom Tracker. October 1, 2020. [Rather than denounce attacks on press, Trump doubles down on negative tweets.](#)

⁹⁶⁰ Forbes. October 19, 2020. [Trump Calls CNN ‘Dumb Bastards’ For Frequently Covering Covid-19 News](#); NPR. October 19, 2020. [Trump Rails Against ‘Fauci And These Idiots’ In Campaign Call.](#)

⁹⁶¹ Newsweek. September 2, 2020. [As Fauci Debunks Trump’s Death Toll Retweet, Here Are 4 More Times He’s Contradicted President on coronavirus](#); NBC News. October 6, 2020. [Dr. Fauci contradicts Trump’s false claim that Covid-19 is as deadly as flu](#); Business Insider. October 25, 2020. [Dr. Fauci contradicted Trump’s repeated claims that the US is ‘rounding the corner’ on COVID-19. It’s ‘actually going in the wrong direction’.](#)

⁹⁶² U.S. Press Freedom Tracker. October 1, 2020. [Rather than denounce attacks on press, Trump doubles down on negative tweets.](#)

⁹⁶³ “CNN talks about is “covid, covid, covid” all the time to try to “talk everybody out of voting.”. “People aren’t buying it “dumb bastards”. Forbes. October 19, 2020. [Trump Calls CNN ‘Dumb Bastards’ For Frequently Covering Covid-19 News](#); The Hill. October 19, 2020. [Trump calls CNN ‘dumb bastards’ for covering coronavirus.](#)

⁹⁶⁴ The New York Times. January 25, 2020. [Pompeo Denounces News Media, Undermining U.S. Message on Press Freedom](#); CNN. January 25, 2020. [Pompeo’s response to NPR host over Ukraine questions is latest example of hostile treatment toward media.](#)

⁹⁶⁵ USA Today. October 20, 2020. [Donald Trump leaves contentious ‘60 Minutes’ interview with Lesley Stahl, goes on Twitter attack](#); Politico. October 20, 2020. [Trump ends ‘60 Minutes’ interview, attacks Lesley Stahl on Twitter.](#)

⁹⁶⁶ As the CPJ points out, “A major Pew Research Center study in late 2019 showed that a plurality of Republicans consistently distrusted most of the news media (except for Trump-supporting media like Fox News), while pluralities of Democrats tended to trust them. In a Pew survey conducted in mid-March, 62% of respondents said the news media had exaggerated the risks from the COVID-19 virus”. The Pew Research Center study and survey are available at: <https://www.journalism.org/2020/01/24/u-s-media-polarization-and-the-2020-election-a-nation-divided/> and https://www.journalism.org/2020/03/18/americans-immersed-in-covid-19-news-most-think-media-are-doing-fairly-well-covering-it/pi_2020-03-18_coronavirus-news1_0-01/. Both are quoted in: Committee to Protect Journalists (CPJ). April 16, 2020. [The Trump Administration and the Media.](#)

coverage of the elections and protests over racial injustice.⁹⁶⁷ The Office of the Special Rapporteur observes that the violence unleashed against journalists was clearly on display in the Capitol insurrection, during which the message "murder the media" was scrawled on a door inside the Capitol by followers of the president.⁹⁶⁸ The Office of the Special Rapporteur highlights that even some prominent Democrats, like the mayor of Chicago, have said that Trump's statements—such as a tweet from April 2020 calling on people to "free Michigan" in response to the Michigan governor's emergency measures to stop the spread of the coronavirus—contributed to the individuals who plotted to kidnap the Michigan governor in October 2020, a plot that was discovered by the Federal Bureau of Investigation (FBI). A number of people are being investigated for the plot, which was allegedly aimed at reining in what the plotters called the governor's "uncontrolled power."⁹⁶⁹ Also in response to the emergency measures to prevent the spread of the coronavirus adopted by the Michigan governor, on April 30, demonstrators—some of them armed—barged into the Michigan State Capitol to protest.⁹⁷⁰

C. Social protest, freedom of expression during elections, and attacks, threats, and intimidation aimed at journalists and media while they work

a. Black Lives Matter protests and attacks, threats, and intimidation aimed at journalists and media while they worked

⁶⁴³ The death of George Floyd while he was in police custody in Minneapolis on May 25 sparked widespread anger, and from May 26 onward, citizens joined mass protests as part of the "Black Lives Matter movement in hundreds of cities around the country and in all 50 states."⁹⁷¹ Many of the protests grew less intense and frequent in the months after the death of George Floyd. However, they continued in several cities, and in the city of Portland, went on without interruption for more than 100 days.⁹⁷² Although most of the demonstrators were peaceful, several cities saw isolated acts of vandalism and looting. In some cases, incidents of violence were caused by demonstrators or counterdemonstrators, or by the police themselves when using force to disperse the demonstrators or trying to enforce curfews in many places.⁹⁷³ All this was taking place in the context of the COVID-19 pandemic, which was also the cause of a number of protests in which people expressed their disagreement with a series of measures adopted to stop the spread of the coronavirus.⁹⁷⁴

⁶⁴⁴ The 2020 Black Lives Matter protests intensified discussions of systematic racism, structural discrimination, and police brutality and abuse in the United States against persons of African descent. Although the death of George Floyd led to more intense and frequent protests, many protests were also citing the death of Breanna Taylor and the shooting seven times of Jacob Blake, and they were generally an expression of citizens' anger at similar incidents committed by the police against African-American persons.

⁹⁶⁷ Reporters Without Borders (RSF). May 31, 2020. [US: Fueled by years of Trump's demonization of the media, unprecedented violence breaks out against journalists covering protests](#); U.S. Press Freedom Tracker. September 7, 2020. [Journalist covering pro-Trump demonstration hit by paintballs in Oregon](#); U.S. Press Freedom Tracker. September 30, 2020. [Trump supporter assaults, knocks phone out of journalist's hands](#); Reuters. January 15, 2021. ['Enemy of the people': Trump's relationship with the media](#).

⁹⁶⁸ Milwaukee Independent. January 9, 2021. [Murder the media: Journalists targeted again as "the enemy of the people" by pro-Trump insurrectionists](#); Fox News. January 26, 2021. [Burlinson man photographed near 'Murder the Media' graffiti on Capitol door arrested](#).

⁹⁶⁹ According to the Chicago Tribune, Chicago Mayor Lori Lightfoot said: "I think all roads lead back to Donald Trump", [...] "Unfortunately, every single time he attacks a public official, and I know this personally, there are those who take that as license to come after us". Chicago Tribune. October 8, 2020. [6 men charged in plot to kidnap Michigan Gov. Gretchen Whitmer at her vacation home; 7 others charged with plan to attack police, state Capitol](#); Fox News. October 9, 2020. [Chicago mayor blames Trump for plot against Michigan Gov. Whitmer](#).

⁹⁷⁰ ABC News. April 30, 2020. [Protesters, some armed, spill into Michigan Capitol building demanding end to stay-at-home order](#); BBC News. May 1, 2020. [Coronavirus: Armed protesters enter Michigan statehouse](#).

⁹⁷¹ NBC News. June 1, 2020. [Map: Protests and rallies for George Floyd spread across the country](#); USA Today. June 3, 2020. [Tracking protests across the USA in the wake of George Floyd's death](#); The Washington Post. September 3, 2020. ['The United States is in crisis': Report tracks thousands of summer protests, most nonviolent](#).

⁹⁷² KOIN. December 31, 2020. [Portland protests: What happened in 2020, what's next in 2021](#); Oregon Live. October 30, 2020. [Who is still protesting on Portland's streets into 7th month and what do they want?](#).

⁹⁷³ The Washington Post. September 3, 2020. ['The United States is in crisis': Report tracks thousands of summer protests, most nonviolent](#); ACLED and Bridging Divides Initiative (BDI) at Princeton University. US Crisis Monitor Report. Available for consultation at: <https://acleddata.com/2020/09/03/demonstrations-political-violence-in-america-new-data-for-summer-2020/>; USA Today. June 10, 2020. [From coastal cities to rural towns, breadth of George Floyd protests – most peaceful – captured by data](#).

⁹⁷⁴ BBC News. April 19, 2020. [Coronavirus: US protests against and for lockdown restrictions](#); Axios. May 15, 2020. [In photos: Groups protest coronavirus lockdowns across the U.S.](#)

In this regard, the IACHR reaffirmed that the murder of George Floyd (Minnesota, 2020), and those of Trayvon Martin (Sanford, 2012), Michael Brown (Missouri, 2014), Eric Garner (New York, 2014), Tamir Rice (Ohio, 2014), Alton Sterling (Los Angeles, 2016), Philando Castile (Minnesota, 2016), Terence Crutcher (Oklahoma, 2016), Breonna Taylor (Kentucky, 2020), as well as all other assassinations of Afro-Americans due to racial police violence, are not isolated acts of violence, but rather part of a historical and structural process of systematic discrimination based on ethnic-racial origin in the United States. The Commission observed that these serious crimes are framed in a context of historical impunity; and of insufficient or no accountability by the criminal justice system and police institutions, respectively.⁹⁷⁵

645. Although, as indicated, there were protests in all 50 states, some of the cities in which they were the most intense were the following: Minneapolis, Minnesota; New York, NY; Miami, Florida; Denver, Colorado; Los Angeles, California; Nashville, Tennessee; Salt Lake, Utah; Cleveland, Ohio; Raleigh, North Carolina; Louisville, Kentucky; Atlanta, Georgia; Austin, Texas; Dallas, Texas; Philadelphia, Pennsylvania; Washington DC; Kenosha, Wisconsin; and Portland, Oregon.⁹⁷⁶ In Portland, they continued for more than 100 days and all throughout the rest of 2020.⁹⁷⁷

646. According to public information, for pollsters estimated that between 15 and 26 million people participated in the protests over the death of George Floyd and the deaths of other African-Americans at the hands of the police or in their custody, which could make these demonstrations the largest in the history of the United States.⁹⁷⁸ The Office of the Special Rapporteur notes that although several cities saw isolated acts of vandalism and looting, or in some cases, incidents of violence provoked by the police themselves, or by demonstrators or counterdemonstrators, the majority of the protests were peaceful.⁹⁷⁹ In response to the high number of protests in cities throughout the country, at least 31 states and the District of Columbia decided to deploy the National Guard and security personnel from various federal agencies to support state and local police in dealing with the protests and enforcing the curfews ordered in a number of cities.⁹⁸⁰ Likewise, President Trump, who called himself the "law and order president," called the governors "weak" and urged them to use more aggressive tactics to control violence and unruly protests.⁹⁸¹ The president also said he would mobilize all the federal forces available, "civilian and military," to put an immediate end to the violent protests.⁹⁸²

647. Like other human rights organizations, the Office of the Special Rapporteur observes that security forces made excessive and disproportionate use of force against demonstrators, journalists, and media personnel.⁹⁸³ As an Amnesty International report indicates, "In many cities law enforcement confronted

⁹⁷⁵ IACHR. June 8, 2020. [Press Release 129/20. The IACHR expresses strong condemnation for George Floyd's murder, repudiates structural racism, systemic violence against Afro-Americans, impunity and the disproportionate use of police force, and urges measures to guarantee equality and non-discrimination in the United States](#)

⁹⁷⁶ The Guardian. May 31, 2020. [George Floyd protests: the US cities that became hotspots of unrest](#); U.S. Press Freedom Tracker. (n.d.). Press freedom aggressions during Black Lives Matter protests database. Available for consultation at: <https://pressfreedomtracker.us/george-floyd-protests/>

⁹⁷⁷ KOIN. December 31, 2020. [Portland protests: What happened in 2020, what's next in 2021](#); Oregon Live. October 30, 2020. [Who is still protesting on Portland's streets into 7th month and what do they want?](#); U.S. Press Freedom Tracker. November 5, 2020. [Photojournalist's camera damaged during arrest in Portland](#).

⁹⁷⁸ The New York Times. July 3, 2020. [Black Lives Matter May Be the Largest Movement in U.S. History](#); CNN. June 6, 2020. [Tens of thousands march in largest George Floyd protests so far in the US](#).

⁹⁷⁹ The Washington Post. September 3, 2020. ['The United States is in crisis': Report tracks thousands of summer protests, most nonviolent](#); ACLED and Bridging Divides Initiative (BDI) at Princeton University. US Crisis Monitor Report. Available for consultation at: <https://acleddata.com/2020/09/03/demonstrations-political-violence-in-america-new-data-for-summer-2020/>; USA Today. June 10, 2020. [From coastal cities to rural towns, breadth of George Floyd protests – most peaceful – captured by data](#).

⁹⁸⁰ ABC News. June 4, 2020. [US protests map shows where curfews and National Guard are active](#); PBS. June 9, 2020. ['Optics matter': National Guard deployments amid unrest have a long and controversial history](#).

⁹⁸¹ CNN. June 1, 2020. [An agitated Trump encourages governors to use aggressive tactics on protesters](#); The Washington Post. June 1, 2020, [Trump calls governors 'weak,' urges them to use force against unruly protests](#); NPR. June 1, 2020. [Trump Calls Governors Weak, Urging Them To 'Dominate' To Quell Violence](#)

⁹⁸² Político. June 1, 2020. [Trump threatens to end protests with military](#); NPR. June 2, 2020. [Trump Threatens To Send U.S. Military To States To End Violent Protests](#).

⁹⁸³ CNN. June 8, 2020. [In one week there were at least 9 instances of police using excessive force caught on camera](#); IACHR. June 8, 2020. [Press Release 129/20. The IACHR expresses strong condemnation for George Floyd's murder, repudiates structural racism, systemic violence against Afro-Americans, impunity and the disproportionate use of police force, and urges measures to guarantee equality and non-discrimination in the United States](#). Human Rights Watch (HRW). October 21, 2020. [US: Protect Peaceful Assemblies; Limit Use of Force](#).

protesters while wearing riot gear as a first level of response, rather than in response to any particular acts of violence. Again, and again, law enforcement used physical force, chemical irritants, kinetic impact projectiles, and arbitrary arrest and detention as a first resort against largely peaceful demonstrations. In several cities, law enforcement resorted to physical force against largely peaceful protesters to enforce hastily rolled out curfews. [...] These acts of excessive force were committed by members of state and local police departments, as well as by National Guard troops and security force personnel from several federal agencies. Among the abuses documented were beatings, the misuse of tear gas and pepper spray, and the inappropriate and at times indiscriminate firing of 'less lethal' projectiles, such as sponge rounds and rubber bullets."⁹⁸⁴ One of the most salient examples of the use of force took place on June 1 in Lafayette Square, in Washington DC, when security forces dispersed a peaceful protest with tear gas and other tactics minutes before the president gave a speech calling on mayors and governors to aggressively deploy their security forces to put an end to the violence or he would call in the military to do so. After the demonstrators were removed from Lafayette Square by force, the president went to St. John's Church to take a photograph holding a Bible.⁹⁸⁵

648. Additionally, in cities like Washington DC and Portland, Oregon, unidentified federal agents were present, and they refused to identify themselves when asked to by the media. In Portland, some of these unidentified agents even snatched civilians off the street, taking them away in unmarked vehicles.⁹⁸⁶

649. According to an investigation by Physicians for Human Rights, during the initial months of the protests (May 26 to July 27), at least 115 people were injured in the head and neck from the use of sponge grenades and rubber bullets by security forces.⁹⁸⁷ Likewise, at least 25 people died during the protests and the political instability during 2020, including some members of security forces. According to journalism sources, 11 people died while participating in peaceful demonstrations and another 14 died in other incidents related to political disturbances. "Nine of the people killed during protests were demonstrators taking part in Black Lives Matter protests. Two were conservatives killed after pro-Trump 'patriot rallies.' All but one were killed by fellow citizens."⁹⁸⁸

650. This Office also expresses concern at the mass arrests and detentions carried out by police forces. According to public information, it is estimated that more than 14,000 people were arrested/detained while exercising their right to protest.⁹⁸⁹ The Office of the Special Rapporteur highlights that, according to journalism sources, the vast majority of the people arrested were charged with minor nonviolent offenses, most of them for violating curfews or emergency orders. A small number of people were charged with crimes related to acts of violence or threats of acts of violence against people, businesses, or property, including misdemeanor or felony charges related to rioting, theft, looting, attempted assault, assault on police officers, weapons, and arson.⁹⁹⁰

651. The Office of the Special Rapporteur notes that there were also violent confrontations between demonstrators and counterdemonstrators who were members of the extreme right (white supremacists). These clashes led to the deaths of two people in Kenosha, Wisconsin, on August 25, 2020, after they were allegedly shot by 17-year-old Kyle Rittenhouse. According to a report from Amnesty International, Rittenhouse and other armed militia members traveled to Kenosha to "to protect local businesses, allegedly in response to a post on Facebook calling for 'patriots willing to take up arms and defend' Kenosha following the police shooting of [...] Jason Blake. While neither Rittenhouse nor those he allegedly killed or injured were

⁹⁸⁴ Amnesty International. August, 2020. [The World is Watching: Mass Violations by U.S. Police of Black Lives Matter Protesters' Rights](#).

⁹⁸⁵ NPR. June 1, 2020. [Peaceful Protesters Tear-Gassed To Clear Way For Trump Church Photo-Op](#); The Washington Post. July 27, 2020. [National Guard officer says police suddenly moved on Lafayette Square protesters, used 'excessive force' before Trump visit](#); US News. July 28, 2020. [Clearing Operation at Lafayette Square Unrelated to Trump Photo Op: Police Chief](#).

⁹⁸⁶ American Civil Liberties Union (ACLU). January 4, 2021. [New Law Requires Federal Agents to Identify Themselves to Protesters](#); United States. Congress (House of Representatives). January 1, 2021. [H.R.6395 - National Defense Authorization Act for Fiscal Year 2021. Became Public Law No: 116-283](#).

⁹⁸⁷ Physicians for Human Rights. September 14, 2020. [Shot in the Head; Human Rights Watch \(HRW\). October 21, 2020. US: Protect Peaceful Assemblies: Limit Use of Force](#).

⁹⁸⁸ The Guardian. October 31, 2020. [At least 25 Americans were killed during protests and political unrest in 2020](#); Forbes. June 8, 2020. [14 Days Of Protests, 19 Dead](#).

⁹⁸⁹ The Washington Post. June 22, 2020. [Who caused the violence at protests? It wasn't antifa](#); Forbes. January 7, 2021. [Figures Show Stark Difference Between Arrests At D.C. Black Lives Matter Protest And Arrests At Capitol Hill](#).

⁹⁹⁰ The Washington Post. October 23, 2020. [Swept up by police](#); Time. August 19, 2020. [These Black Lives Matter Protesters Had No Idea How One Arrest Could Alter Their Lives](#).

participating in conventional peaceful assemblies, their violent clash clearly illustrated the high risks of confrontations between politically opposed armed groups or individuals, especially in the lead-up to already polarized general elections, and in some cases traveling across jurisdictions for the fight.”⁹⁹¹ Another concerning incident took place in Minneapolis, when a tanker truck plowed into thousands of people marching on a highway to protest the death of George Floyd.⁹⁹² Amnesty International has documented and verified violent confrontations between approximately 200 different protests and counterprotests from May to September 2020, “in approximately 75% (37) of all US states. In almost half of all US states (23), Amnesty International also confirmed cases of police forces demonstrably failing to keep assemblies peaceful and to protect participants from violent confrontations between protests.”⁹⁹³

652. For the Office of the Special Rapporteur, it is especially concerning that the repression and excessive use of force by security forces during protests over the death of George Floyd, as well as the violence from nonstate actors, has come at a tumultuous moment for freedom of the press in the United States, in which journalists and media workers throughout the country have faced a constant avalanche of attacks, aggressions, arrests, detentions, and other acts limiting in one way or another the exercise of their work. A shocking and unprecedented number of journalists have been arbitrarily arrested and detained, beaten, sprayed with pepper gas, teargas, and shot with projectiles like rubber bullets. The US Press Freedom Tracker said it had received more complaints of freedom of expression violations over the last six months than in the three years since its creation combined,⁹⁹⁴ making it an unprecedented situation.

653. The US Press Freedom Tracker has received a total of more than 960 reports from journalists of violations of their right to freedom of expression when doing their work covering protests.⁹⁹⁵ So far, the Tracker has confirmed and documented at least 616 violations of freedom of the press in 2020, including physical attacks, arrests, detentions, and searches, and confiscation and destruction of equipment. The majority of these incidents took place while the journalists were covering the Black Lives Matter protests. The number is significantly higher than in other years.⁹⁹⁶ The organization continues to corroborate the reports received during 2020.

654. Additionally, the US Press Freedom Tracker confirmed that during 2020, there were at least 392 attacks on journalists and media workers, most of them physical attacks,⁹⁹⁷ as well as 98 incidents of the police searching, confiscating, or destroying their equipment.⁹⁹⁸ Likewise, at least 126 arrests of journalists were confirmed (on charges like failure to disperse, disturbing the peace, disorderly conduct, resisting or obstructing police, impeding traffic, and curfew violations, even though journalists were exempt),⁹⁹⁹ and although the charges were either not filed or dropped quickly in the majority of cases, at least 16 journalists continue facing charges related to the arrest or detention.¹⁰⁰⁰ The majority of attacks and arrests or detentions were reported to have taken place in the context of covering protests over racial injustice since the death of George Floyd, as well as during the elections.¹⁰⁰¹ The US Press Freedom Tracker also confirmed that

⁹⁹¹ Amnesty International. October 2020. [USA: Losing the Peace](#). P. 27.

⁹⁹² Reuters. May 31, 2020. [Truck drives into protesters on Minneapolis highway](#).

⁹⁹³ Amnesty International. October 2020. [USA: Losing the Peace](#). P. 4.

⁹⁹⁴ U.S. Press Freedom Tracker. January 29, 2021. [Our January 2021 Newsletter](#).

⁹⁹⁵ U.S. Press Freedom Tracker. December 1, 2020. [Our December 2020 Newsletter](#).

⁹⁹⁶ U.S. Press Freedom Tracker. (n.d.). Database on press freedom violations throughout 2020. Available for consultation at: <https://pressfreedomtracker.us/>; U.S. Press Freedom Tracker. (n.d.). Press freedom aggressions during Black Lives Matter protests database. Available for consultation at: <https://pressfreedomtracker.us/george-floyd-protests/>; IACHR. Public hearing held during the 177 Period of Sessions. October 7, 2020. [Freedom of Speech and Journalism in U.S. Protests](#).

⁹⁹⁷ U.S. Press Freedom Tracker. (n.d.). Database on journalists physically attacked while covering protest throughout 2020. Available for consultation at: <https://pressfreedomtracker.us/physical-attack/?categories=10&tags=111&endpage=7>

⁹⁹⁸ U.S. Press Freedom Tracker. (n.d.). Database on equipment searched, seized and damaged while covering protests throughout 2020. Available for consultation at: <https://pressfreedomtracker.us/equipment-damage/?categories=345&tags=111>

⁹⁹⁹ U.S. Press Freedom Tracker. (n.d.). Database on arrests / criminal charges while covering protests throughout 2020. Available for consultation at: https://pressfreedomtracker.us/arrest-criminal-charge/?categories=4&date_lower=2020-01-01&date_upper=2020-12-31&status_of_charges=CHARGES_PENDING&endpage=2

¹⁰⁰⁰ U.S. Press Freedom Tracker. (n.d.). Database on press freedom violations throughout 2020. Available for consultation at: <https://pressfreedomtracker.us/>; Freedom of the Press Foundation and U.S. Press Freedom Tracker. December 14, 2020. [New report: A record breaking number of journalists arrested in the U.S. this year](#). P. 11..

¹⁰⁰¹ U.S. Press Freedom Tracker. (n.d.). Database on press freedom violations throughout 2020. Available for consultation at: <https://pressfreedomtracker.us/>; U.S. Press Freedom Tracker. (n.d.). Press freedom aggressions during Black Lives Matter protests database. Available for consultation at: <https://pressfreedomtracker.us/george-floyd-protests/>. Data as of March 3, 2021.

at least 19 subpoenas had been issued to journalists and media outlets, many of them with the objective of obtaining materials collected while covering the protest (see the section on source confidentiality, *infra*).

655. The Office of the Special Rapporteur observes that in a significant majority of cases, journalists were detained, arrested, or assaulted by security forces, even in situations where they had clearly identified themselves as members of the media, where they were some distance from demonstrators, or where they were doing their reporting in observance of the law.¹⁰⁰² They also highlight that in several cases, the attacks were carried out by nonstate actors.¹⁰⁰³

656. According to information provided to this Office, and without prejudice to the seriousness of the more than 960 reports of violations of the right to freedom of expression of journalists during exercise of their work, the Office of the Special Rapporteur highlights the cases of Brendan McDermid, a Reuters photographer who was attacked by the police while taking photographs of arrests during a protest in central Brooklyn; Chris Mathias, a senior HuffPost reporter who was violently arrested by police officers in New York City; and Tyler Blint-Welsh, a *Wall Street Journal* reporter who was struck in the face several times with riot shields and pushed to the ground by New York City police. In all these cases, the media workers were clearly identified as such. Also of note are the cases of photojournalist Linda Tirado, in Minneapolis, who was shot in the face with a sponge grenade that went through her protective glasses, leaving her permanently blind in her left eye. In Los Angeles, a police officer pushed photojournalist Barbara Davidson to the ground, causing her to hit her head on a fire hydrant. And in New York City, the police repeatedly struck *Wall Street Journal* reporter Tyler Blint-Welsh in the face, pushing him to the ground, even though he had a press credential issued by the NYPD that was clearly visible. Additionally, CNN correspondent Omar Jiménez and two other members of his team (Bill Kirkos and Leonel Méndez) were arrested on camera in Minneapolis even though they identified themselves as journalists and offered to comply with any police order should they need to move. NBC News photojournalist Ed Ou was sprayed with pepper spray by the police and shot with a projectile, causing a head injury; MSNBC's Ali Velshi was hit by a rubber bullet while covering a protest in Minneapolis; and Gustavo Martinez of the Asbury Park Press was tackled and arrested despite having been identified as media after he used his cell phone to record how several police officers had violently tackled and arrested two minors who were withdrawing as the police advanced.¹⁰⁰⁴ The Office of the Special Rapporteur also highlights that in Portland, a federal agent in full military gear knelt on the back of photojournalist Rian Dundon; and two other photojournalists—Jon House, of the *Portland Tribune*, and Alex Milan Tracy, who was working for cable TV services—were struck by impact munitions fired by federal officers. Mike Baker, who covered the protests for the *New York Times*, also reported that a federal agent had struck him in the head and that he had been affected by the use of tear gas.¹⁰⁰⁵ Likewise, journalist Josie Huang—like at least 123 other journalists—was arrested and held for five hours for filming an arrest that the police were conducting in Los

¹⁰⁰² U.S. Press Freedom Tracker. (n.d.). Press freedom aggressions during Black Lives Matter protests database. Available for consultation at: <https://pressfreedomtracker.us/george-floyd-protests/>; IACHR. Public hearing held during the 177 Period of Sessions. October 7, 2020. [Freedom of Speech and Journalism in U.S. Protests](#).

¹⁰⁰³ Reporters Without Borders (RSF). May 31, 2020. [US: Fueled by years of Trump's demonization of the media, unprecedented violence breaks out against journalists covering protests](#); U.S. Press Freedom Tracker. September 7, 2020. [Journalist covering pro-Trump demonstration hit by paintballs in Oregon](#); U.S. Press Freedom Tracker. September 30, 2020. [Trump supporter assaults, knocks phone out of journalist's hands](#).

¹⁰⁰⁴ Reporters Without Borders (RSF). May 31, 2020. [US: Fueled by years of Trump's demonization of the media, unprecedented violence breaks out against journalists covering protests](#); CNN. May 29, 2020. [CNN crew released from police custody after they were arrested live on air in Minneapolis](#); The Hollywood Reporter. May 30, 2020. [Journalists Detail Being Hit by Rubber Bullets, Attacked While Covering Nationwide Protests](#); The Washington Post. May 31, 2020. ['The norms have broken down': Shock as journalists are arrested, injured by police while trying to cover the story](#); The New York Times. June 1, 2020. [Police Target Journalists as Trump Blames 'Lamestream Media' for Protests](#); APP. June 3, 2020. ['¡Que se jo--! ¡Él es el problema!': Reportero del APP narra su arresto durante una protesta por George Floyd](#); Amnesty International. August 2020. [The World is Watching: Mass Violations by U.S. Police of Black Lives Matter Protesters' Rights](#). P. 42 and ff.; Reporters Committee for Freedom of the Press (RCFP). September 4, 2020. [Amid Black Lives Matter protests, a crushing moment for journalists facing record attacks, arrests at the hands of law enforcement](#); Information shared by Fundamedios and Reporters Committee for Freedom of the Press (RCFP) in October 2020. Available for consultation at: Archive of the Office of the Special Rapporteur for Freedom of Expression; IACHR. Public hearing held during the 177 Period of Sessions. October 7, 2020. [Freedom of Speech and Journalism in U.S. Protests](#).

¹⁰⁰⁵ Columbia Journalism Review. July 24, 2020. [The attacks on press freedom in Portland](#).

Angeles. She was later released with charges of obstructing police. Several days later, the charges were dropped by the prosecutor.¹⁰⁰⁶

657. The Office of the Special Rapporteur underscores that these attacks, aggressions, arrests, and detentions carried out against journalists covering Black Lives Matter protests took place in an environment of stigmatization and negative statements against the media from senior government authorities, particularly from President Donald Trump and his administration. As mentioned previously, according to a January 2020 study, Americans are increasingly polarized in terms of how they view the credibility of the mainstream media. This mistrust, questioning of credibility, contempt, and disdain for media outlets critical of the government have manifested in physical violence and extreme repression during the 2020 protests.

658. Instead of the leaders at all levels of government—including the president of the United States—clearly stating the role that a free press plays in a democratic society, they called the media “the enemies of the people,” describing the information they provided as “fake news” and even blaming them for the increase in violence, all of which increased the risk that journalists already faced when doing their work. For example, in the context of the protests, President Trump joked about an American TV news host being shot with a rubber bullet during protests in Minnesota. The president said: “I remember this guy Velshi, he got hit in the knee with a canister of tear gas and he went down. He was down. ‘My knee, my knee.’ Nobody cared, these guys didn’t care, they moved him aside. And they just walked right through. It was the most beautiful thing [...] after we take all that crap for weeks and weeks, and you finally see men get up there and go right through them, wasn’t it really a beautiful sight? It’s called law and order.”¹⁰⁰⁷ He also blamed Antifa and called the demonstrators “terrorists” and “subversives.”¹⁰⁰⁸

659. In addition to the physical and legal threats against journalists, the economic crisis resulting from the coronavirus pandemic and the already difficult financial state of local journalism mean that many journalists have had to cover the worst public health crisis in a century and transformative protests demanding racial justice under imminent threat of furloughs and layoffs.

660. The Office of the Special Rapporteur also highlights as progress certain measures and court rulings adopted to protect the media while they covered protests. These include the October 9, 2020, decision of the United States Court of Appeals for the Ninth Circuit prohibiting federal agents from dispersing, arresting, or using physical force against journalists and legal observers during protests in the city of Portland (see section on progress, *supra*). This Office also views as progress the December 15, 2020, decision of the U.S. Court of Appeals for the First Circuit finding it unconstitutional for the state of Massachusetts to ban secret audio recordings of officers of the law performing their official duties in public spaces. The court found that “regardless of whether a recording is made secretly or openly, recording police officers in the public performance of their duties falls within the scope of newsgathering activities protected by the First Amendment and [...] ‘can sometimes be a better tool’ for observing police officer conduct than recording that is done openly.”¹⁰⁰⁹ The Office of the Special Rapporteur also welcomes that Congress has passed a new requirement for federal military and civilian law enforcement personnel involved in the federal government’s response to a “civil disturbance” to wear visible identification of themselves and the name of the government entity employing them. The requirement was added to the National Defense Authorization Act, which just became law.¹⁰¹⁰ Additionally, this Office has information indicating that the California State Assembly passed a law that would protect journalists from attacks during protests, explicitly granting them protection from law enforcement officers by prohibiting them from assaulting, obstructing, arresting, or interfering with the

¹⁰⁰⁶ NPR. September 13, 2020. [KPCC Journalist Tackled, Arrested While Trying to Cover L.A. Protest](#); BuzzFeed News. September 24, 2020. [Sheriff's Deputies Falsely Said This Reporter Had Failed to ID Herself: A Prosecutor Has Now Dropped The Case Against Her](#)

¹⁰⁰⁷ CNN. September 20, 2020. [Trump mocks MSNBC anchor Ali Velshi for getting shot with rubber bullet](#); Fox News. September 23, 2020. [Trump continues to mock MSNBC's Ali Velshi for getting injured covering a protest](#).

¹⁰⁰⁸ The Washington Post. June 22, 2020. [Who caused the violence at protests? It wasn't antifa](#); IACHR. June 8, 2020. [Press Release 129/20. The IACHR expresses strong condemnation for George Floyd's murder, repudiates structural racism, systemic violence against Afro-Americans, impunity and the disproportionate use of police force, and urges measures to guarantee equality and non-discrimination in the United States](#)

¹⁰⁰⁹ Reporters Committee for Freedom of the Press (RCFP). December 17, 2020. [First Circuit: Massachusetts can't ban secret recording of law enforcement in public](#).

¹⁰¹⁰ American Civil Liberties Union (ACLU). January 4, 2021. [New Law Requires Federal Agents to Identify Themselves to Protesters](#); United States Congress (House of Representatives). January 1, 2021. [H.R.6395 - National Defense Authorization Act for Fiscal Year 2021. Became Public Law No: 116-283](#).

reporting process (SB629). However, on September 30, the governor vetoed the measure, arguing that certain of its language could be interpreted very broadly.¹⁰¹¹

661. Lastly, regarding access to justice and accountability, this office notes that, according to public information, at least 40 lawsuits for police violence and excessive use of force have been filed against various police departments.¹⁰¹² For example, on June 2, the American Civil Liberties Union (ACLU) filed a lawsuit in the United States District Court against the city of Minneapolis, listing the injuries suffered by journalists and arguing that police participated in "an extraordinary escalation of unlawful force deliberately targeting reporters," violating the First Amendment. On June 10, the ACLU filed a lawsuit before the United States District Court, Western District of Washington at Seattle, alleging that the Seattle Police Department had deployed "unnecessary violence" against peaceful demonstrators. The complaint argues that the attacks were not limited to demonstrators, saying accredited journalists have said they were gassed or attacked with flash bangs simply for being present and documenting the protest for the public. The ACLU also filed suit in the cities of Omaha, Nebraska; Portland, Oregon; Denver, Colorado; and Boston, Massachusetts.¹⁰¹³

b. Freedom of expression during elections, social protest, and attacks, threats, and intimidation aimed at journalists and media while they work

662. The year 2020 was an election year in the United States. The presidential primaries began in February and lasted until August 2020,¹⁰¹⁴ and the general elections were held on November 3, 2020. Democratic candidate Joseph Biden beat Republican candidate Donald Trump after a campaign marred by polarization of the electorate and accusations by the Republican candidate that the elections had been "rigged."

663. In view of this polarization and the adverse environment for the media, the Office of the Special Rapporteur highlights the work the media did covering the election, which was broad and extensive for both candidates. This work enabled the dissemination of an array of information and opinions from multiple sources to inform voters and help them decide on and cast their votes. This Office also recognizes that the use of social media platforms during elections to disseminate information and opinions in the public interest and as a source for them has increased exponentially in recent years, and with it, the potential for disseminating false or misleading information. It therefore welcomes the initiatives of companies like Twitter and Facebook to implement new internal rules and policies to address and attack the phenomena of disinformation, misinformation, and misleading information during elections.¹⁰¹⁵

664. Without prejudice to this, according to public information, several incidents were documented of limitations to journalism activities and to access to information during the elections, as well as the dissemination of false, erroneous, or misleading information regarding the integrity of the country's electoral system, particularly regarding mail-in ballots, the deadlines for receiving them and counting them, the deadlines for absentee voting,¹⁰¹⁶ and the election results.

¹⁰¹¹ Courthouse News. September 30, 2020. *Governor Newsom Signs Newspaper Relief Bill But Rejects Expanded Press Access Measure*. The decision to veto is available at: <https://www.gov.ca.gov/wp-content/uploads/2020/09/SB-629.pdf>; Reporters Committee for Freedom of the Press (RCFP). October 1, 2020. *RCFP urges California Gov. Gavin Newsom to sign bill that would protect journalists covering protests*.

¹⁰¹² CBS News. June 23, 2020. *At least 40 lawsuits claim police brutality at George Floyd protests across U.S.*; University of Michigan Law School. Civil Rights Litigation Clearing House. (n.d.). Database available for consultation at: [Civil Rights Litigation Clearinghouse](#).

¹⁰¹³ American Civil Liberties Union (ACLU). 3 de junio de 2020. *Police are Attacking Journalists at Protests. We're Suing*; Jurist. 10 de junio de American Civil Liberties Union (ACLU). June 3, 2020. *Police are Attacking Journalists at Protests. We're Suing*; Jurist. June 10, 2020. *Washington ACLU sues Seattle over violent police tactics against protesters*; The Denver Channel. June 25, 2020. *ACLU of Colorado sues Denver over police officers' use of force against protesters*; OPB. June 28, 2020. *ACLU Sues Portland Police, Saying Officers Attacked Journalists At Protests*; Police Mag. August 14, 2020. *ACLU Sues Boston Police for Alleged Excessive Use of Force at Protests*; American Civil Liberties Union (ACLU). October 25, 2020. *ACLU sues city of Omaha, challenging excessive force in protester arrests*.

¹⁰¹⁴ USA Today. May 27, 2020. *When are the 2020 presidential election primaries?*; National Conference on State Legislators (NCSL). November 3, 2020. *2020 State Primary Election Dates*.

¹⁰¹⁵ Organization of American States (OAS). November 6, 2020. *Preliminary Statement of the OAS Electoral Observation Mission for the November 3, 2020 General Elections in the United States of America*. Pp. 10, 19 and 20. Available for consultation at: <http://www.oas.org/EOMDatabase/MoeReport.aspx?Lang=En&Id=428&MissionId=509>; Facebook. September 3, 2020. *New Steps to Protect the US Elections*; Twitter. September 10, 2020. *Expanding our policies to further protect the civic conversation*.

¹⁰¹⁶ "Much of the litigation for the 2020 elections concerned modifications to the electoral process as a result of the pandemic, and whether these modifications preserve or expand voting rights, or restrict them. Many complaints were filed in state courts regarding absentee ballot deadlines, including in Montana, Massachusetts, Michigan, Minnesota, Ohio, Pennsylvania, and Wisconsin, with different

665. The Office of the Special Rapporteur underscores, for example, that according to public information, on January 30, 2020, at least 30 journalists from different media outlets were prohibited from entering one of President Donald Trump's reelection campaign rallies in Des Moines, Iowa, despite having been pre-accredited.¹⁰¹⁷ Also, on February 3, President Trump's reelection campaign prevented two BuzzFeed News journalists from reentering the Iowa caucus watch party in West Des Moines, Iowa, telling them that they had been "uninvited." Also, a Bloomberg News journalist was ejected from a press conference in the same city shortly after the start of the state caucuses based on a policy of not issuing more press credentials to the media.¹⁰¹⁸ Something similar happened on September 10, when Trump's reelection campaign removed a *New York Times* correspondent because, according to the campaign, she had not applied for credentials through the regular process and was covering the event from the general seating. The correspondent said that while she covered the event, she was tweeting about the large number of people at the rally who were not wearing masks.¹⁰¹⁹ On May 21, Joe Biden's campaign banned reporters from attending a question-and-answer session during a virtual fundraiser with Wall Street donors, a departure from the regular practice of letting them participate in these events and from previous statements on promoting transparency. An hour after the journalists lost their connections to the event, the deputy campaign manager reiterated the campaign's commitment to allowing them to participate in the future and to transparency, although he did not explain the reasons for losing the connection.¹⁰²⁰

666. Additionally, the Office of the Special Rapporteur notes that peaceful marches were held to encourage the citizens of North Carolina to vote ("North Carolina March to the polls"), but they were met with pepper spray and other demonstrations both supporting and opposing Donald Trump.¹⁰²¹

667. On election day, the Democratic candidate called for people to remain calm and await the national vote count, while the Republican candidate declared the process was a "major fraud in our nation," said he had won the elections, and said to "stop the count." After November 3, while the votes were still being counted in different states, the president continued to claim there had been election fraud, without any basis or evidence, calling into question the integrity of the electoral system and the vote count and accusing Democrats of having "rigged" the elections. The republican candidate said "[they are] trying to steal the elect" and that "we will never let them do it," reiterating that his campaign would file lawsuits.¹⁰²² Also, according to public information, pressure was being placed on elections officials in counties that were key for the final vote, along with internal pressure on Republican officials in some states to block the certification of the vote count, among other reprehensible acts.¹⁰²³ Statements like "[they are] trying to steal this election", "rigged elections" and "voter fraud" joined the list of false statements that the president issued during the election year, particularly since the month of April, claiming that mail-in ballots would contribute to elections fraud, that voting by mail was "corrupt" and "dangerous," even though states were implementing this type of voting

outcomes, including on appeal with the Federal Supreme Court. There were also cases relating to signature matching requirements for absentee ballots in Ohio, Texas, and North Dakota". See, Organization of American States (OAS). November 6, 2020. *Preliminary Statement of the OAS Electoral Observation Mission for the November 3, 2020 General Elections in the United States of America*. Pp. 5 - 6. Available for consultation at: <http://www.oas.org/EOMDatabase/MoeReport.aspx?Lang=En&Id=428&MissionId=509>

¹⁰¹⁷ Des Moines Register. January 31, 2020. [Some reporters denied entrance from at-capacity Trump Des Moines rally](#); U.S. Press Freedom Tracker. January 30, 2020. [Trump campaign bars reporters from multiple outlets from entering Iowa rally](#).

¹⁰¹⁸ U.S. Press Freedom Tracker. February 3, 2020. [Trump campaign bars BuzzFeed staff from re-entering Iowa caucus watch party](#) and [Trump campaign removes Bloomberg journalist from Iowa press conference](#); The Hill. February 3, 2020. [Trump campaign removes Bloomberg News reporter from Iowa event](#).

¹⁰¹⁹ U.S. Press Freedom Tracker. September 10, 2020. [Trump campaign removes journalist for New York Times from Michigan rally](#); Deadline. September 10, 2020. [Trump Campaign Boots New York Times Reporter out of Rally; Noted Crowd Mostly Maskless](#).

¹⁰²⁰ AP News. May 21, 2020. [Biden campaign limits press access during virtual fundraiser](#); U.S. Press Freedom Tracker. May 21, 2020. [In change of practice, Biden campaign closes Q&A session to reporters during virtual fundraiser](#).

¹⁰²¹ The News & Observer. October 31, 2020. [March to Alamance polls ends with police using pepper-spray on protesters, children](#); NPR. October 31, 2020. [Police in N.C. Arrest, Pepper Spray Protesters During March To Polls Event](#); Los Angeles Times. October 31, 2020. [Thousands of Trump supporters rally in Beverly Hills ahead of election day](#).

¹⁰²² The Washington Post. November 4, 2020. [Trump falsely asserts election fraud, claims a victory](#); VOA News. November 6, 2020. [Trump's Claims of Voter Fraud Draw Criticism from Both Parties](#); Organization of American States (OAS). November 6, 2020. *Preliminary Statement of the OAS Electoral Observation Mission for the November 3, 2020 General Elections in the United States of America*. Pp. 8 and 10. Available for consultation at: <http://www.oas.org/EOMDatabase/MoeReport.aspx?Lang=En&Id=428&MissionId=509>

¹⁰²³ The Guardian. December 12, 2020. [After the fact: the five ways Trump has tried to attack democracy post-election](#);

and absentee voting as safe alternatives during the pandemic.¹⁰²⁴ In this context, the Office of the Special Rapporteur highlighted the findings of the Electoral Observation Mission of the Organization of American States (OAS) as regards the satisfactory work of “electoral authorities in the days after the poll to provide clear, fact-based information on their progress in the counting process, and to explain the applicable state law and certification processes in the different jurisdictions.”¹⁰²⁵

668. Likewise, although according to the preliminary report of the Electoral Observation Mission of the OAS, the candidates had the right to appeal to the corresponding internal mechanisms and judicial authorities should they believe there to be irregularities, it is also critical that “candidates act responsibly by presenting and arguing legitimate claims before the courts, not unsubstantiated or harmful speculation in the public media.”¹⁰²⁶ In this regard, the Office of the Special Rapporteur concludes the statements of the Republican candidate and other authorities contributed to creating an environment of disinformation in an electorate that was already divided and polarized.

669. The Office of the Special Rapporteur notes that the preliminary report of the OAS Electoral Observation Mission notes that vote recounts were conducted in Georgia and Wisconsin and that President Trump filed several lawsuits before the corresponding courts, and although they did not rule in his favor, they ruled in an independent, orderly, and timely manner, demonstrating the “strength of the U.S. electoral justice system.” In this regard, 538 members of the Electoral College met in different states on December 14, 2020, to issue their votes for president and vice president, giving the victory to the Democratic Party.¹⁰²⁷ The Electoral Observation Mission emphasized that it did not directly observe irregularities that would have called into question the results of the election.¹⁰²⁸

670. As indicated previously, in the days both before and after the elections, the protests held in favor of and against Trump increased. Many of them focused on denying the projected results and echoing the president’s claims with slogans like “stop the steal,” “count the votes,” “stop the count,” “rigged elections,” and others. In this context, more than 60 reports of violations of the right to freedom of expression related to the electoral process were received in 2020.¹⁰²⁹ Many of these violations involved destruction of equipment, aggressions, physical attacks, detentions, and arrests against journalists covering protests before and after the election, as well as against demonstrators, both by security forces and nonstate actors.¹⁰³⁰ Journalists were sprayed with pepper spray and chemical irritants, pushed, harassed, prevented from doing their reporting work, and threatened with arrest. For example, on October 31, 2020, while photojournalist Julia Wall of the *News & Observer* was covering a march to the polls and rally in Graham, North Carolina, a police officer grabbed her camera to push her. The police tried to disperse the March by warning the demonstrators, after which they used pepper spray as a means of crowd control.¹⁰³¹ Something similar happened on the same day to a *Los Angeles* photojournalist Jintak Han, who was pushed to the ground by a police officer, damaging

¹⁰²⁴ BBC News. September 23, 2020. [‘Stop the steal’: The deep roots of Trump’s ‘voter fraud’ strategy](#); The New York Times Magazine. September 30, 2020. [The Attack on Voting. How President Trump’s false claim of voter fraud is being used to disenfranchise Americans](#); The Washington Post. January 13, 2021. [Trump’s actions that led to the violence at the Capitol began months ago](#).

¹⁰²⁵ Organization of American States (OAS). November 6, 2020. *Preliminary Statement of the OAS Electoral Observation Mission for the November 3, 2020 General Elections in the United States of America*. P. 10. Available for consultation at: <http://www.oas.org/EOMDatabase/MoeReport.aspx?Lang=En&Id=428&MissionId=509>

¹⁰²⁶ Organization of American States (OAS). November 6, 2020. *Preliminary Statement of the OAS Electoral Observation Mission for the November 3, 2020 General Elections in the United States of America*. P. 10. Available for consultation at: <http://www.oas.org/EOMDatabase/MoeReport.aspx?Lang=En&Id=428&MissionId=509>.

¹⁰²⁷ Organization of American States (OAS). December 15, 2020. [Press Release E-125/20 Statement from the OAS Electoral Observation Mission to the General Elections in the United States](#).

¹⁰²⁸ Organization of American States (OAS). November 6, 2020. *Preliminary Statement of the OAS Electoral Observation Mission for the November 3, 2020 General Elections in the United States of America*. P. 10. Available for consultation at: <http://www.oas.org/EOMDatabase/MoeReport.aspx?Lang=En&Id=428&MissionId=509>

¹⁰²⁹ The Office of the Special Rapporteur has registered assaults, physical attacks, arrests, detentions and destruction of journalistic equipment during the coverage of protests related to the 2020 elections. According to information available by U.S. Press Freedom Tracker, more than 60 reports of freedom of expression violations related to the electoral process were received in 2020. U.S. Press Freedom Tracker. December 1, 2020. [Our December 2020 Newsletter](#).

¹⁰³⁰ U.S. Press Freedom Tracker. (n.d.). Press freedom Election 2020 database. Available for consultation at: <https://pressfreedomtracker.us/election-2020/>; U.S. Press Freedom Tracker. November 1, 2020. [November: Journalists harassed, threatened while covering election and social justice protests](#).

¹⁰³¹ U.S. Press Freedom Tracker. October 31, 2020. [Officer grabs photojournalist’s camera, pushes her back during North Carolina march to the poll](#); U.S. Press Freedom Tracker. October 31, 2020. [Eleven journalists affected by chemical irritant during march to the polls](#).

his camera, while he was covering confrontations between demonstrators at protests in Beverly Hills, California.¹⁰³² Similar incidents were reported in Portland, New York City, and Seattle.¹⁰³³ Likewise, followers of President Trump also acted with violence against the press.¹⁰³⁴ For example, two women journalists—among many others—were attacked by Trump followers¹⁰³⁵ while covering the “Million MAGA” march on November 14 in Washington, DC. One of them was struck on the side of the head, causing her to bleed from her ear, while the other was insulted and surrounded by a group of demonstrators after one of them recognized her as a critic of extreme right groups and called her a “bitch.”¹⁰³⁶ Likewise, several journalists were temporarily detained or arrested on charges like “pedestrians on roadways,” “resisting, delaying or obstructing a public officer,” or “failure to disperse”¹⁰³⁷.

D. Censorship, restrictions on freedom of expression, disinformation, and access information during the COVID-19 pandemic

671. According to public information, on January 18, 2020, the U.S. National Archives publicly apologize for having altered images criticizing President Donald Trump in a photograph included in an exhibit commemorating the 100-year anniversary of the recognition of women's right to vote. At the entrance to the exhibit in Washington, DC, photographs were on display of a march for women's suffrage in 1913, juxtaposed with the women's march that took place on January 21, 2017, each one visible from a different angle. In the 2017 photograph, the word “Trump” had been blurred out in at least two signs carried by demonstrators, including one that originally said “God hates Trump.” Other signs with words or images relating to female anatomy had also been altered. The National Archives acknowledged having edited the 2017 photograph so as “not to engage in current political controversy.” However, the federal agency apologized and recognized having committed a mistake. It withdrew the edited photograph and replaced it with the original, saying it would review its applicable internal policies.¹⁰³⁸

672. At the same time, the Office of the Special Rapporteur notes that the Sergeant at Arms of the Senate placed restrictions on the coverage of the first impeachment trial of the President, which began on January 16, 2020. According to public information, journalists who were used to covering the Capitol with more freedom and access to the building had reported that for the impeachment trial, they had been confined to small, cordoned-off areas where unrestricted access was typically the rule. They were prevented from walking with Senators to continue conversations, even when the senator involved was willing to participate voluntarily, and they were prohibited from approaching Senators for interviews in the hallways. Nearly 60 news organizations signed a request to Senate authorities asking for the restrictions to be relaxed.¹⁰³⁹

673. Likewise, March 11, 2020, marked one year since the Trump administration had held a televised press conference in the White House led by a press secretary, a drastic break with long-time White House tradition.¹⁰⁴⁰ Daily press conferences began again on March 16, 2020, to provide information on the activities of the COVID-19 working group.

674. This Office also expresses concern at the decision to not renew J-1 visas for foreign journalists working for *Voice of America* (VOA)—the federal government's international broadcaster—after they expired. VOA broadcasts in 47 languages and uses the specialized regional knowledge, contacts, and linguistic abilities

¹⁰³² U.S. Press Freedom Tracker. October 31, 2020. [Photojournalist shoved to the ground, equipment damaged during Beverly Hills political protest](#)

¹⁰³³ U.S. Press Freedom Tracker. (n.d.). Press freedom Election 2020 database. Physical attacks. Available for consultation at: <https://pressfreedomtracker.us/physical-attack/?tags=125&endpage=4>

¹⁰³⁴ U.S. Press Freedom Tracker. September 7, 2020. [Journalist covering pro-Trump demonstration hit by paintballs in Oregon](#); U.S. Press Freedom Tracker. November 1, 2020. [November: Journalists harassed, threatened while covering election and social justice protests](#).

¹⁰³⁵ U.S. Press Freedom Tracker. (n.d.). Press freedom Election 2020 database. Physical attacks. Available for consultation at: <https://pressfreedomtracker.us/physical-attack/?tags=125&endpage=4>

¹⁰³⁶ U.S. Press Freedom Tracker. November 14, 2020. [Two journalists assaulted during 'Million MAGA March' in D.C.](#)

¹⁰³⁷ U.S. Press Freedom Tracker. (n.d.). Press freedom Election 2020 database. Arrests/criminal charge. Available for consultation at: <https://pressfreedomtracker.us/arrest-criminal-charge/?tags=125&endpage=2>

¹⁰³⁸ The Washington Post. January 17, 2020. [National Archives exhibit blurs images critical of President Trump](#); Reuters. January 18, 2020. [National Archives removes exhibit that altered images of Women's March](#).

¹⁰³⁹ NPR. January 17, 2020. [Reporters Challenge New Restrictions in Trying To Cover Senate Impeachment Trial](#); Reporters Without Borders (RSF). January 17, 2020. [RSF calls on the Senate to reverse unprecedented restrictions on the press](#).

¹⁰⁴⁰ Reporters Without Borders (RSF). March 11, 2020. [Death of the daily press briefing: How the White House is closing the door on the American people](#)

of its journalists from throughout the world, and they are therefore crucial for its operations. In July 2020, individuals who had learned of the decision reported that the new Executive Director of the U.S. Agency for Global Media-USAGM, Michael Pack, had said he would not approve the visa extensions. In July, the USAGM, which supervises Voice of America and four other media outlets,¹⁰⁴¹ said it was conducting a case-by-case evaluation of J-1 renewal request. According to VOA, USAGM had said the review's purpose was to improve the agency's management, protect the national security of the United States, and guarantee that contracting authorities were not misused. As a result, at least 15 journalists were forced to leave their jobs and return to their countries of origin.¹⁰⁴²

675. This was one of several measures adopted by the new USAGM Executive Director, confirmed by the Senate on June 4, 2020, in an attempt to "purge the organization of career officials, censor criticisms of President Trump and withhold congressionally appropriated funding from a subsidiary of the media organization" and "politicize[...] the federal agency intended to promote independent and credible journalism."¹⁰⁴³ Although the USAGM is a federal agency that operates with government funding, "The agency's mandate is to promote unbiased news in support of freedom and democracy abroad."¹⁰⁴⁴ The new director had removed several members of the USAGM's bipartisan Board of Directors to replace the officials with his own political appointees; he also dismissed the heads of the Middle East Broadcasting Networks, Radio Free Asia, Radio Free Europe/Radio Liberty and the Office of Cuba Broadcasting.¹⁰⁴⁵ Under the new USAGM administration, VOA was heavily criticized after posting a tweet in support of Vice President Mike Pence that some called state propaganda; VOA said the tweet was published "prematurely" and that the language used was unfortunate.¹⁰⁴⁶ Michael Pack resigned on January 20, 2021, at the request of President Biden, who had a plan to undo several of Pack's measures. This has resulted in the launch of administrative investigations and lawsuits against the former executive director.¹⁰⁴⁷

676. Along with this, the Department of Homeland Security issued a proposal toward the end of September to tighten visa regulations for foreign journalists working in the country and reduce the number of days they are allowed to stay. The move was harshly criticized by civil society, which asked that the proposed measure be dropped, as it would endanger foreign journalists' ability to report independently. DHS received comments on the proposal through the end of October.¹⁰⁴⁸

677. Regarding access to information during the COVID-19 pandemic, according to the information received, and especially toward the beginning of the pandemic, a number of federal, state, and local agencies suspended or extended the deadlines for processing requests for access to public information. For example, the FBI initially said it would neither accept nor answer electronic requests for access to information because of the health emergency; however, shortly afterward, it posted on its website that it would accept requests for information and respond to them with delays.¹⁰⁴⁹ Other federal, state, and local agencies announced that they

¹⁰⁴¹ "The USAGM is an independent federal agency composed of five news organizations: Voice of America, Radio Free Europe/Radio Liberty, Office of Cuba Broadcasting, Radio Free Asia and Middle East Broadcasting Networks. Its stated mission is to align U.S. national interests with global media, "to inform, engage and connect people around the world in support of freedom and democracy." [...] "The USAGM also supports the Open Technology Fund (OTF), an independent nonprofit organization that works to advance global internet freedom and protect citizens worldwide from repressive censorship and surveillance regimes". See, Lawfare. January 12, 2021. [Trump's War on the U.S. Agency for Global Media](#); U.S. Agency for Global Media-USAGM. Available for consultation at: <https://www.usagm.gov/who-we-are/mission/>;

¹⁰⁴² NPR. July 9, 2020. [U.S. Broadcasting Agency Will Not Extend Visas For Its Foreign Journalists](#); Voice of America (VOA). August 25, 2020. [VOA Journalists Fly Home After USAGM Fails to Renew J-1 Visas](#).

¹⁰⁴³ Lawfare. January 12, 2021. [Trump's War on the U.S. Agency for Global Media](#).

¹⁰⁴⁴ Lawfare. January 12, 2021. [Trump's War on the U.S. Agency for Global Media](#).

¹⁰⁴⁵ Lawfare. January 12, 2021. [Trump's War on the U.S. Agency for Global Media](#); CNN. June 18, 2020. ['Wednesday night massacre' as Trump appointee takes over at global media agency](#).

¹⁰⁴⁶ TheWrap. August 12, 2020. [Pro-Pence Voice of America Tweet Sparks Anger: Is This 'State Propaganda'?](#);

¹⁰⁴⁷ VOA. January 20, 2021. [USAGM Head Resigns Following Biden Request](#); NPR. January 20, 2021. [Defined By Scandal At Voice of America, CEO Resigns At Biden's Request](#); NPR. January 8, 2021. [Voice of America CEO Accused Of Fraud, Misuse Of Office All In One Week](#).

¹⁰⁴⁸ Public Media Alliance. October 25, 2020. [New rule could drastically limit the visas of foreign journalists in the US](#); Reporters Without Borders (RSF). October 26, 2020. [RSF calls on DHS to drop plans to restrict journalists' visas](#); Voice of America (VOA). November 10, 2020. [Journalism Organizations: Proposed US Visa Change Could Result in Censorship, Retaliation](#).

¹⁰⁴⁹ BuzzFeed News. March 17, 2020. [The FBI Has Limited Public Records Requests During The Coronavirus Pandemic](#); Axios. March 18, 2020. [FBI stops FOIA online requests, asks for mailed letters instead](#); FBI Portal. (n.d.). [Requesting FBI Records](#); IACHR. Special Rapporteurship for Freedom of Expression. April 18, 2020. [Press release R78/20. IACHR and its SR FOE express concern about restrictions on freedom of expression and access to information in States' response to the COVID-19 pandemic](#).

would extend the deadlines for turning over information, sometimes to up to 40 days or as the public agency "deems necessary." In some cases, the deadlines were even suspended. For example, the District of Columbia adopted emergency legislation allowing DC government agencies to delay responding to requests for access, with something similar happening in the states of Rhode Island, Maryland, and Texas. Philadelphia suspended the response deadlines indefinitely, as did the State Department, the city governments of Fresno and Sonoma County, California, and Boise, Idaho; and the Hawaii State Judiciary. The governors of Hawaii and Pennsylvania informed their state agencies that they were not required to respond to requests until their offices were functioning normally.¹⁰⁵⁰

678. Likewise, government agencies in charge of handling the pandemic did not provide information to organizations like Open the Government and its allies, who sent at least 600 FOIA requests starting in March for access to public records on pandemic response and how the government was handling the coronavirus. After receiving no responses from any federal agencies, the organization filed lawsuits in connection with some of the requests.¹⁰⁵¹

679. Nevertheless, the Office of the Special Rapporteur highlights the creation of information databases on COVID-19 and its spread by private entities like Johns Hopkins University, as well as the information provided by the media itself. This Office also highlights the efforts made by states and their governors to hold press conferences and/or provide reports on the pandemic and the measures to contain and address it, for example in New York and in Washington, DC.¹⁰⁵² At the federal level, the Office of the Special Rapporteur notes as particularly positive the publication of a Department of Health and Human Services report in December 2020 in which the federal government reported on the status of the coronavirus outbreak in the United States, publishing data that had previously only been available to government employees pursuant to its obligation of active transparency.¹⁰⁵³

680. In addition to placing limits on the processing of requests for information, the Office of the Special Rapporteur observes that some governments limited certain journalists' access to government sources in their coverage of the health crisis. On April 30, 2020, an internal email of the U.S. Centers for Disease Control and Prevention (CDC), made public in response to a request under the Freedom of Information Act, said its workers were banned from granting interview requests to "anyone affiliated with Voice of America,"¹⁰⁵⁴ specifically because the White House condemned the broadcaster's work and accused it of disseminating Chinese propaganda about the virus.¹⁰⁵⁵ Likewise, some members of the White House coronavirus working group, such as Dr. Anthony Fauci, director of the National Institute of Allergy and Infectious Diseases, and Dr. Deborah Birx, coronavirus response coordinator, were briefly prevented from giving interviews on CNN or giving public statements without prior approval from Vice President Mike Pence.¹⁰⁵⁶

681. At the state level, several limitations on access to press conferences about the coronavirus were documented, along with restrictions on the questions that could be asked to authorities. In Hawaii, according to a journalist from *Maui Alert*, the governor did not allow his media outlet to ask questions during remote press conferences, apparently in retaliation for its criticism of coronavirus testing and misinformation from the government. Something similar was reported by journalists from other states, who had been kept out of

¹⁰⁵⁰ Reporters Committee for Freedom of the Press (RCFP). (n.d.). [Press freedom and government transparency during COVID-19](#); Reporters Committee for Freedom of the Press (RCFP) March 17, 2020. [Reporters Committee statement on D.C.'s COVID-19 emergency legislation](#); [Public Records and Open Meetings Measures related to COVID-19 from the Reporters Committee for Freedom of the Press database](#); Twitter account of Elizabeth Pancotti @ENPancotti. [March 18, 2020](#); Columbia Journalism Review. March 25, 2020. [Public Access to Information Suffers Under Coronavirus](#); The New York Times. May 12, 2020. [No, Your FOIA Request Cannot Wait 'Until This Emergency Is Over'](#).

¹⁰⁵¹ Open the Government. August 28, 2020. [COVID-19 secrecy rampant as agencies clampdown on FOIA](#).

¹⁰⁵² Committee to Protect Journalists (CPJ). July 14, 2020. [Data journalists describe challenges of reporting on the true toll of COVID-19](#); US News. March 23, 2020. [How Coronavirus Made Andrew Cuomo America's Governor](#); DCW50. August 17, 2020. [Mayor Bowser discusses voting by mail and COVID-19 in the District](#).

¹⁰⁵³ CNBC. December 18, 2020. [HHS releases sweeping new report on U.S. Covid outbreak in move toward transparency](#).

¹⁰⁵⁴ Knight First Amendment Institute. Columbia University. April 30, 2020. [Email from Michawn Rich re: "Roundup" of processes for press inquiries](#); Committee to Protect Journalists (CPJ). June 15, 2020. [Internal CDC memo forbids staff from speaking with Voice of America](#).

¹⁰⁵⁵ Politico. April 10, 2020. [White House rips U.S.-funded outlet Voice of America in daily newsletter](#); The Washington Post. April 10, 2020. [White House attacks Voice of America, claiming it promoted Chinese propaganda](#).

¹⁰⁵⁶ Business Insider. February 28, 2020. [The Trump administration briefly barred a top US disease expert from speaking freely to the public after he warned the coronavirus might be impossible to contain](#); The Hill. April 9, 2020. [Pence bars coronavirus task force members from appearing on CNN: report](#); CNBC. April 9, 2020. [Pence bars top health experts Fauci and Birx from appearing on CNN, the network says](#).

press conferences given by their governor in retaliation for critical questions or articles. In Florida, the head of the *Miami Herald's* Tallahassee bureau was prohibited from entering COVID-19 press conferences because she had complained about the implementation of social distancing measures in the press conferences of governor Ron DeSantis. Likewise, Puerto Rican governor Wanda Vázquez, who gave press conferences on the coronavirus working group, received questions from journalists that, according to the media, after they became very critical—especially regarding the money invested in rapid testing—were not accepted. While some states like Texas and Hawaii limited the number of live questions and follow-ups, other states eliminated real-time questions completely. For example, in Rhode Island, the governor's administration initially required all questions for informational sessions about the coronavirus to be submitted beforehand, sparking harsh criticism from the media. They were then allowed to send questions by text during a 15 minute question-and-answer session at the end of the presentation, followed by a teleconference after the presentation. In Missouri, journalists were prevented from attending the daily press conferences given by Governor Mike Parson, whose staff preselected certain questions to be answered by the governor, sent ahead of time; likewise, Pennsylvania Governor Tom Wolfe initially limited the questions from journalists to those sent ahead of time, through an online form, with no opportunity for follow-up questions.¹⁰⁵⁷

682. Despite State authorities' responsibility to inform the public appropriately and based on science, President Trump disseminated false or erroneous information on, among other things, the pandemic and the integrity of the country's elections system, particularly with regard to mail-in ballots, as described above. Regarding COVID-19 in particular, for example, "Trump has touted false treatments for COVID-19, such as suggesting that disinfectants and ultraviolet light were possible cures. He has also repeated in several instances that hydroxychloroquine could be used to treat COVID-19, despite scientific evidence to the contrary."¹⁰⁵⁸ Likewise, he downplayed the seriousness of the virus, saying it would be under control by April because of increasing temperatures, that it was similar to the flu, that children were "virtually immune" to the coronavirus, that the United States had the lowest virus mortality rates, and that it was under control and receding, among many other statements.¹⁰⁵⁹ Dr. Anthony Fauci pushed back on some of these incorrect, false, or erroneous statements shared by the president,¹⁰⁶⁰ causing Trump to criticize him.

683. This came in addition to the series of false, erroneous, or misleading statements made by the president throughout his term. According to an investigation by the *Washington Post*, which built a fact checker database, Trump made 30,573 false or misleading statements during his four years as president, of which almost half were made during 2020.¹⁰⁶¹

684. The Office of the Special Rapporteur is also concerned at the passage of an amendment to Puerto Rico's Public Security Act criminalizing the media or social media accounts that "transmit or allow the transmission" of "false information" on government programs or executive orders related to COVID-19 or other disasters. The amendment uses broad and vague terminology and criminalizes the sharing of information that the government considers to be false on emergencies in Puerto Rico, including the current COVID-19 global pandemic. Violators can face up to three years in prison and a fine of up to \$5000. The

¹⁰⁵⁷ Committee to Protect Journalists (CPJ). March 30, 2020. [Reporter denied access to Florida governor's briefing on COVID-19](#); The Kansas City Star. April 1, 2020. [Missouri Gov. Mike Parson criticized for COVID-19 briefings that lack transparency](#); Reporters Without Borders (RSF). April 23, 2020. [RSF calls on Trump administration to allow free flow of information on coronavirus](#); U.S. Press Freedom Tracker. May 1, 2020. [How's newsgathering during COVID-19 at the state level? Depends on the governor](#).

¹⁰⁵⁸ Inter-American Dialogue. August 2020. [Covid-19 and Freedom of Expression in the Americas](#); BBC. April 24, 2020. [Coronavirus: Outcry after Trump suggests injecting disinfectant as treatment](#); The Washington Post. May 18, 2020. [Trump says he is taking hydroxychloroquine to protect against coronavirus, dismissing safety concerns](#); Newsweek. September 2, 2020. [As Fauci Debunks Trump's Death Toll Retweet, Here Are 4 More Times He's Contradicted President on coronavirus](#).

¹⁰⁵⁹ The Washington Post. 14 de marzo de 2020. [Tracking Trump's false or misleading coronavirus claims](#); The Atlantic. 2 de noviembre de 2020. [All the President's Lies About the Coronavirus](#).

¹⁰⁶⁰ Newsweek. 2 de septiembre de 2020. [As Fauci Debunks Trump's Death Toll Retweet, Here Are 4 More Times He's Contradicted President on coronavirus](#); NBC News. 6 de octubre de 2020. [Dr. Fauci contradicts Trump's false claim that Covid-19 is as deadly as flu](#); Business Insider. 25 de octubre de 2020. [Dr. Fauci contradicted Trump's repeated claims that the US is 'rounding the corner' on COVID-19. It's 'actually going in the wrong direction'](#).

¹⁰⁶¹ The Washington Post. March 14, 2020. [Tracking Trump's false or misleading coronavirus claims](#); The Atlantic. November 2, 2020. [All the President's Lies About the Coronavirus](#).

American Civil Liberties Union (ACLU) and ACLU Puerto Rico file a lawsuit alleging First Amendment violations in response to the amendment against "fake news" in Puerto Rico.¹⁰⁶²

E. Freedom of expression and the Internet

685. This Office of the Special Rapporteur recognizes that the use of social media platforms to disseminate information and opinions in the public interest and as a source for them has increased exponentially in recent years, and with it, the potential for disseminating false, erroneous, or misleading information, especially during the pandemic and the election held this year. In response, the platforms had to adopt specific measures to address the dissemination of this type of information and receive both criticism and pressure over the role they could play as content moderators. The Office of the Special Rapporteur has followed the public debate on the role that social media platforms play in moderating content and the right to freedom of expression and welcomes the initiatives of companies like Twitter, Facebook and YouTube to implement new rules and policies to address and attack the phenomena of disinformation, misinformation, and misleading information, as well as to create oversight bodies like the Facebook Oversight Board.

686. In response to the COVID-19 pandemic, the leading platforms have adopted a variety of measures and made decisions to limit the scope of false information through moderation and the elimination of content and contextualization of disinformation by promoting verified public health content from sources like the WHO.¹⁰⁶³ This was also done for the 2020 elections.¹⁰⁶⁴

687. In February 2020, Twitter announced it would tag or remove content considered synthetic media or deepfakes.¹⁰⁶⁵ Likewise, in March 2020, it announced a policy of moderating and removing tweets with information that could cause harm or contradict the authorized global and local sources of information on public health with regard to the COVID-19 pandemic.¹⁰⁶⁶ Later, in May 2020, the company also announced that it would post labels or warnings on tweets that shared information that was disputed, misleading, or went against the guidance of public health authorities on COVID-19,¹⁰⁶⁷ providing a link to trustworthy sources.¹⁰⁶⁸ YouTube also announced it would remove medical disinformation on COVID-19, and that with repeat violations, the user's channel would be deleted.¹⁰⁶⁹

688. In April, Facebook and Instagram began using tags to redirect their users to trustworthy sources of information about the pandemic on posts containing COVID-19 content, especially those considered questionable.¹⁰⁷⁰ The tag directs users to information produced by the WHO and Facebook's "Coronavirus Information Hub." Additionally, Google has prioritized fact checked information, including a collection of texts and graphics that are updated daily. Likewise, YouTube strengthened its content moderation and took measures.¹⁰⁷¹

689. Facebook and Twitter have also removed posts with information considered false, including regarding the vaccines.¹⁰⁷² For example, both Twitter and Facebook removed the video in which Donald

¹⁰⁶² Committee to Protect Journalists (CPJ). April 8, 2020. [New Puerto Rico law threatens jail time for spreading 'false information' about COVID-19](#); American Civil Liberties Union (ACLU). May 20, 2020. [ACLU Challenges Puerto Rico Covid-19 'Fake News' Laws](#)

¹⁰⁶³ Inter-American Dialogue. August 2020. [Covid-19 and Freedom of Expression in the Americas](#).

¹⁰⁶⁴ [Facebook. September 3, 2020. New Steps to Protect the US Elections: Twitter. September 10, 2020. Expanding our policies to further protect the civic conversation.](#)

¹⁰⁶⁵ Twitter. February 4, 2020. [Building rules in public: Our approach to synthetic & manipulated media](#); New York Times. February 4, 2020. [Twitter Moves to Target Fake Videos and Photos](#).

¹⁰⁶⁶ Twitter. March 16, 2020. [An update on our continuity strategy during COVID-19](#).

¹⁰⁶⁷ Twitter. May 11, 2020. [Updating our approach to misleading information](#); Reuters. May 11, 2020. [Twitter launches labels, warnings on misleading COVID-19 information](#).

¹⁰⁶⁸ Twitter. April 3, 2020. [Coronavirus: Staying safe and informed on Twitter](#); Inter-American Dialogue. August 2020. [Covid-19 and Freedom of Expression in the Americas](#).

¹⁰⁶⁹ Inter-American Dialogue. August 2020. [Covid-19 and Freedom of Expression in the Americas; Google. YouTube policies. \(n.d.\). COVID-19 medical misinformation policy](#).

¹⁰⁷⁰ Facebook. April 16, 2020. [An Update on Our Work to Keep People Informed and Limit Misinformation About COVID](#); Inter-American Dialogue. August 2020. [Covid-19 and Freedom of Expression in the Americas](#).

¹⁰⁷¹ New America. (n.d.) [How Internet Platforms Are Combating Disinformation and Misinformation in the Age of COVID-19](#). CNBC. December 10, 2020. [Google launches knowledge panels in search results to tackle misinformation about Covid vaccines](#).

BBC. December 3, 2020. [Covid-19: Facebook to take down false vaccine claims](#); CNN. December 3, 2020. [Facebook to remove debunked claims about coronavirus vaccines](#).

Trump said children were practically immune from the virus.¹⁰⁷³ However, in April, "Facebook, Twitter and YouTube (...) declined to remove Mr. Trump's statements posted online in video clips and transcriptions of the briefing, saying he did not specifically direct people to pursue the unproven treatments."¹⁰⁷⁴ Likewise, the Twitter account of President Trump's lawyer, Rudy Giuliani, was temporarily suspended for quoting a conservative activist who said hydroxychloroquine was "100% effective in treating the coronavirus."¹⁰⁷⁵

690. For the 2020 presidential election, Twitter expanded its policies against disinformation to content on the elections, tagging tweets and limiting interactions.¹⁰⁷⁶ Twitter tagged a post by Donald Trump for the first time after he posted tweets saying that mail-in voting would enable elections fraud.¹⁰⁷⁷ The tag read "get the facts about mail-in ballots." For its part, Facebook created an information hub on the candidates and the latest official polling,¹⁰⁷⁸ and starting in September 2020, it began publicizing new internal policies for contributing to guaranteeing the integrity of the elections and providing or referring users to "authoritative" information on the elections and their results.¹⁰⁷⁹

691. Following the vote, Twitter tagged posts with content related to the vote count, with the tags reading "official sources may not have called the race when this was tweeted." In other cases, Twitter used a tag that did not allow access to the post until the user agreed to view the content and saying that the information could be in dispute. Several of Donald Trump's tweets were tagged during the vote count.¹⁰⁸⁰ Facebook and YouTube also took action regarding false information following the vote, but with less restrictive measures. On Facebook, a tag highlighting that the presidential race had not yet finished could be seen on posts on the subject, without a specific content classification. For example, a post by Joe Biden and Donald Trump received the same type of tag on Facebook.¹⁰⁸¹ YouTube showed panels with live information.¹⁰⁸²

692. Several of the measures adopted by the platforms, especially the Twitter tags on the president's tweets about the election, garnered a reaction from Trump, who called the measure of violation of the right to freedom of expression that he would not allow.¹⁰⁸³ In May 2020, Trump signed an Executive Order requesting a number of federal agencies adopt measures to amend Section 230 of the Communications Decency Act of 1996 and regulate platforms' responsibility for content published by their users or due to moderation decisions.¹⁰⁸⁴ The current law establishes that intermediaries have immunity for the publication of information provided by third parties¹⁰⁸⁵—that is, platforms are not liable for content published by third parties. Following the issuing of the Executive Order, the Department of Justice prepared recommendations on regulating Internet platform activities,¹⁰⁸⁶ and in September, sent a bill to reform the Communications Decency Act.¹⁰⁸⁷ The Justice Department said: "The proposal makes clear that, when interactive computer

¹⁰⁷³ CBS. August 6, 2020. [Facebook and Twitter remove video of Trump falsely claiming children are "almost immune" to the coronavirus](#). Wall Street Journal. August 6, 2020. [Facebook, Twitter Take Down Video of Trump Saying Children 'Almost Immune' From Covid-19](#).

¹⁰⁷⁴ Inter-American Dialogue. August 2020. [Covid-19 and Freedom of Expression in the Americas: The New York Times. April 30, 2020. Trump's Disinfectant Talk Trips Up Sites' Vows Against Misinformation](#).

¹⁰⁷⁵ Inter-American Dialogue. August 2020. [Covid-19 and Freedom of Expression in the Americas: CNET. April 1, 2020. Twitter says it's removed more than 1,100 misleading coronavirus tweets](#).

¹⁰⁷⁶ Twitter. September 10, 2020. [Expanding our policies to further protect the civic conversation](#).

¹⁰⁷⁷ Bloomberg. May 26, 2020. [Twitter Adds Fact-Check Label to Trump Tweets for First Time](#); Protocol. November 4, 2020. [Facebook and Twitter are finally calling out election misinformation. Is it working?](#)

¹⁰⁷⁸ Facebook. August 13, 2020. [Voting Information Center](#); Reuters. August 13, 2020. [Facebook, Twitter step up fight against misinformation on U.S. elections](#).

¹⁰⁷⁹ Facebook. September 3, 2020. [New Steps to Protect the US Elections](#).

¹⁰⁸⁰ The Washington Post. November 7, 2020. [Twitter labels Trump's latest claim about election fraud as 'disputed' but doesn't limit dissemination](#). CNN. November 7, 2020. [Twitter has applied warning labels to 37% of Trump's tweets since final polls closed](#)

¹⁰⁸¹ CNN. November 4, 2020. [How Twitter, Facebook and YouTube are handling election misinformation](#); Protocol. November 4, 2020. [Facebook and Twitter are finally calling out election misinformation. Is it working?](#)

¹⁰⁸² CNN. November 4, 2020. [How Twitter, Facebook and YouTube are handling election misinformation](#); Protocol. November 4, 2020. [Facebook and Twitter are finally calling out election misinformation. Is it working?](#)

¹⁰⁸³ Bloomberg. May 26, 2020. [Twitter Adds Fact-Check Label to Trump Tweets for First Time](#);

¹⁰⁸⁴ Brookings Institution. June 8, 2020. [A primer on Section 230 and Trump's executive order](#); The Washington Post. May 28, 2020. [Trump readies executive order targeting Facebook, Google and Twitter, sparking widespread criticism about threats to free speech](#).

¹⁰⁸⁵ "No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider" ([47 U.S.C. § 230](#)). Brookings Institution. June 8, 2020. [A primer on Section 230 and Trump's executive order](#).

¹⁰⁸⁶ US Department of Justice. June 2020. [Section 230 — Nurturing Innovation or Fostering Unaccountability?](#)

¹⁰⁸⁷ US Department of Justice. September 23, 2020. [The Justice Department Unveils Proposed Section 230 Legislation](#).

services willfully distribute illegal material or moderate content in bad faith, Section 230 should not shield them from the consequences of their actions.”¹⁰⁸⁸

693. For their part, in response to the heightened debate on the subject, in October 2020, days before the elections, Facebook, Twitter, and Google testified before the Senate about their positions on content moderation, antitrust, and online extremism.¹⁰⁸⁹ That same month, the Department of Justice filed an antitrust lawsuit against Google.¹⁰⁹⁰ Likewise, following the elections, on November 17, 2020, the Twitter and Facebook CEOs again testified before the Senate, this time on the actions taken by companies during the 2020 presidential elections, particularly on content moderation during the elections and their alleged anti-conservative bias.¹⁰⁹¹ Effectively, one of the more significant discussions was the alleged difference in treatment in the way content was moderated and the anti-conservative bias of the platforms. For example, in October, Facebook and Twitter limited sharing of a *New York Post* report alleging that large Ukrainian companies had influenced the policy decisions of Joe Biden during the Barack Obama administration. According to news reports, Twitter blocked the newspaper’s main account because the report, published days prior to the election, violated its rules in that it was based on information that could have been obtained through hacking.¹⁰⁹²

694. The tension reached its height with the permanent suspension of Trump’s Twitter, Facebook, and YouTube accounts. After the demonstrations and violence against Congress on January 6, 2021,¹⁰⁹³ the social media network suspended the president’s accounts temporarily to prevent what they called incitement to violence.¹⁰⁹⁴ However, on January 8, 2021, after three new posts from Donald Trump calling his followers patriots and saying he would not attend the inauguration, and based on the existing context, Twitter permanently suspended the president’s account.¹⁰⁹⁵ According to a public statement, they did so “After close review of recent Tweets from the @realDonaldTrump account and the context around them — specifically how they are being received and interpreted on and off Twitter.”¹⁰⁹⁶ After Twitter, Facebook and YouTube followed suit.¹⁰⁹⁷ Twitter has also permanently suspended the accounts of other public figures allied with Trump.¹⁰⁹⁸ This has been called “deplatforming.”

695. Facebook’s decision will be reviewed by its Oversight Board.¹⁰⁹⁹ The Oversight Board is comprised of 20 external specialists, and its purpose is to review Facebook’s decisions to restrict content or users, as well as to issue advisory opinions.¹¹⁰⁰ Its members were selected in May 2020.¹¹⁰¹ During December 2020, the committee announced its first cases¹¹⁰² and issued its first decisions in January 2021, overturning 4 of 5 of the

¹⁰⁸⁸ US Department of Justice. September 23, 2020. [The Justice Department Unveils Proposed Section 230 Legislation](#).

¹⁰⁸⁹ The Washington Post. October 28, 2020. [Facebook, Google, Twitter CEOs clash with Congress in pre-election showdown](#); Reuters. October 2, 2020. [Facebook, Twitter, Google CEOs will testify before U.S. Senate committee](#).

¹⁰⁹⁰ US Department of Justice. October 20, 2020. [Justice Department Sues Monopolist Google For Violating Antitrust Laws](#).

¹⁰⁹¹ The Guardian. November 17, 2020. [Twitter and Facebook CEOs testify on alleged anti-conservative bias](#); CBS. November 17, 2020. [Facebook and Twitter CEOs face Senate questions on election measures](#).

¹⁰⁹² New York Post. October 14, 2020. [Twitter, Facebook censor Post over Hunter Biden exposé](#); Reuters. October 14, 2020. [Twitter, Facebook restrict users' dissemination of New York Post story on Biden](#).

¹⁰⁹³ IACHR. January 8, 2021. [Press Release 005/21. IACHR Condemns Violence Against Congress and Against the Democratic Processes in the United States](#)<http://www.oas.org/es/CIDH/JsForm/?File=/es/cidh/prensa/comunicados/2021/005.asp>.

¹⁰⁹⁴ CNN. January 7, 2021. [Facebook and Twitter temporarily lock Trump's account after riot on Capitol Hill](#); Time. January 7, 2021. [Facebook and Twitter Finally Locked Donald Trump's Accounts. Will They Ban Him Permanently?](#)

¹⁰⁹⁵ Twitter. January 8, 2021. [Permanent suspension of @realDonaldTrump](#); New York Times. January 8, 2021. [Trump's Twitter Account Permanently Suspended](#).

¹⁰⁹⁶ Twitter. January 8, 2021. [Permanent suspension of @realDonaldTrump](#).

¹⁰⁹⁷ The Washington Post. January 13, 2021. [Trump has been suspended from youtube](#); NPR. January 13, 2021. [YouTube Joins Twitter, Facebook In Taking Down Trump's Account After Capitol Siege](#).

¹⁰⁹⁸ Forbes. January 8, 2021. [Twitter Bans Sidney Powell, Mike Flynn For Sharing QAnon Conspiracy Theories](#); NBC. January 8, 2021. [Twitter bans Michael Flynn, Sidney Powell in QAnon account purge](#).

¹⁰⁹⁹ Protocol. January 21, 2021. [Facebook's Oversight Board will review the decision to ban Trump](#); Fox. January 21, 2021. [Facebook oversight board to review Trump ban decision](#).

¹¹⁰⁰ The information is available on the official website of the [Oversight Board](#).

¹¹⁰¹ CNBC. May 6, 2020. [These are the people Facebook put in charge of deciding whether to delete controversial posts](#); Reporters Without Borders (RSF). May 20, 2020. [Oversight Board – "big step for Facebook, small \(side\) step for humankind"](#).

¹¹⁰² Oversight Board. December 2020. [Announcing the Oversight Board's first cases and appointment of trustees](#); Reuters. December 1, 2020. [From hate speech to nudity, Facebook's oversight board picks its first cases](#).

social media company's decisions, including a case of alleged dissemination of disinformation surrounding COVID-19.¹¹⁰³

696. The events surrounding the January 6, 2021, demonstrations at the Capitol also have repercussions for the social network Parler, known for having users that lean conservative.¹¹⁰⁴ Apple and Google removed the app from their app stores on the grounds that Parler did not take sufficient action to moderate content, allowing posts that fomented violence and crime.¹¹⁰⁵ Later, Amazon told Parler that it would not be allowed to obtain a domain and hosting through Amazon Web Services because of repeated violations of its rules, a move that is currently being challenged by Parler in court.¹¹⁰⁶ Some argue that the actions of Apple, Google, and Amazon reveal the power of the big tech companies to drive the public debate.¹¹⁰⁷

F. Subsequent liability

697. The Office of the Special Rapporteur notes that during 2020, senior authorities continued to file civil suits against journalists or media outlets seeking substantial monetary damages for civil redress. However, it highlights that in most of the defamation suits, judges have defended the right to freedom of expression based on the First Amendment of the Constitution by dismissing the suits or finding that the actual malice standard had not been met. The Office of the Special Rapporteur underscores that although during 2020 and in years prior to the Trump administration, the number of suits for defamation filed by senior officials had increased compared to the number of suits filed by previous administrations, it should be noted that since 1980, only 27 defamation suits filed by public officials have been won, thanks to the doctrine of actual malice, according to data compiled by civil society organizations.¹¹⁰⁸

698. According to public information, Congressman Devin Nunes has filed eight defamation lawsuits since 2019 against media outlets, Twitter (see *supra*, Progress), individuals who have criticized him, and an investigation firm.¹¹⁰⁹ Among the lawsuits are one filed against CNN for \$435 million on December 3, 2019, which was transferred to New York's jurisdiction in 2020,¹¹¹⁰ and a lawsuit for \$75 million against *Esquire* and a journalist, which was dismissed by a judge in August 2020. The latter lawsuit was dismissed when the judge concluded that the statements described as defamatory by the plaintiff were true, were opinions, had no direct relation to the Congressman, or were protected by the First Amendment.¹¹¹¹ Also of note are the two lawsuits filed against the Washington Post and its journalists in March—seeking \$255 million—and in November 2020. The March lawsuit was filed after Nunes claimed he was defamed by an article in the *Post* referring to an alleged conversation he had with the president on an intelligence briefing in which he informed the president that "A senior U.S. intelligence official told lawmakers last week that Russia want[ed] to see President Trump reelected." A federal judge dismissed the lawsuit on December 24, 2020, finding that

¹¹⁰³ Oversight Board. January 2021. [Announcing the Oversight Board's first case decisions](#); NBC. January 28, 2021. [Facebook's 'Oversight Board' overturns 4 cases in first rulings](#).

¹¹⁰⁴ Newsweek. November 18, 2020. [Here Are All the Prominent Conservatives Who Have Joined Parler](#); New York Times. November 11, 2020. [Fact-Checked on Facebook and Twitter, Conservatives Switch Their Apps](#).

¹¹⁰⁵ New York Times. January 9, 2021. [Amazon, Apple and Google Cut Off Parler, an App That Drew Trump Supporters](#); CNN. January 11, 2021. [Parler has now been booted by Amazon, Apple and Google](#).

¹¹⁰⁶ Politico. January 21, 2021. [Judge rejects Parler's attempt to force Amazon to host it](#); Bloomberg. January 21, 2021. [Parler Faces 'Difficulties' as Amazon Wins Early Court Fight](#).

¹¹⁰⁷ New York Post. January 10, 2021. [Big Tech's assault on Parler proves it's gone full cartel](#); Bloomberg. January 11, 2021. [Bans on Parler and Trump Show Big Tech's Power Over Web Conversation](#).

¹¹⁰⁸ First Amendment Watch at New York University. August 20, 2020. [North Carolina Supreme Court Upholds Defamation Ruling Against Investigative Reporter](#). The Media Law and Resource Center is quoted as a source.

¹¹⁰⁹ The Fresno Bee. May 22, 2020. [Devin Nunes' lawyer warned about 'forum shopping' as judge moves CNN lawsuit to New York](#); The Hill. December 26, 2020. [Judge dismisses Nunes's defamation suit against Washington Post](#); First Amendment Watch at New York University. November 18, 2020. [How Trump and Nunes Use Defamation Lawsuits To Silence Their Critics](#).

¹¹¹⁰ The Washington Times. December 3, 2019. [Devin Nunes slaps CNN with \\$435 million defamation lawsuit](#); USA Today. December 4, 2019. [Rep. Devin Nunes files \\$435 million defamation lawsuit against CNN](#); The Fresno Bee. May 22, 2020. [Devin Nunes' lawyer warned about 'forum shopping' as judge moves CNN lawsuit to New York](#); The New York Law Journal. May 22, 2020. [Devin Nunes' Defamation Case Against CNN Transferred to Manhattan Federal Court](#). The lawsuit was filed on the grounds that CNN had falsely reported that he had traveled to Vienna in 2018 to "get dirt on former Vice President Joe Biden".

¹¹¹¹ The Hill. October 3, 2019. [Nunes files \\$75M lawsuit over Esquire story about 'secret' Iowa dairy](#); Courthouse News. August 6, 2020. [Federal Judge Dismisses Nunes Defamation Case Over Iowa Farm](#). The lawsuit was filed over an Esquire article from September 2018, titled "Devin Nunes' Family Farm is Hiding a Politically Explosive Secret," which the plaintiff claims was riddled with lies, including that it "falsely states or implies that plaintiff owned an interest in his family's farm in Sibley, Iowa, and that plaintiff was involved in hiding a 'politically explosive secret.'"

the standard of actual malice had not been met.¹¹¹² The defamation suit filed in November 2020 argued that an article published by the *Post* falsely accuse the Congressman of having been involved with a White House official, who had helped him in the middle of the night (which is why the episode has been dubbed the "midnight run") to access intelligence files that "would buttress his baseless claims of the Obama administration spying on Trump Tower."¹¹¹³ The lawsuit remains pending.

699. This Office has also learned of and expressed its concern over four defamation suits filed by President Trump's campaign for reelection against the *New York Times*, *Washington Post*, CNN, and an NBC affiliate. The lawsuit against the *New York Times* was filed on February 26, 2020, and it alleges that a column published in the newspaper in 2019 falsely stated that the 2016 campaign worked with Russia to defeat Hillary Clinton in exchange for a favorable for policy toward Russia.¹¹¹⁴ One day later, on March 3, 2020, the reelection campaign filed a similar lawsuit against the *Washington Post* for two opinion articles published in 2019 that, according to the lawsuit, implicated the president in Russia's electoral interference and accused his 2016 campaign of seeking help from foreign governments like Russia and North Korea.¹¹¹⁵ A third lawsuit, this one against CNN, was filed on March 6 over the publication of an article reporting that Trump's campaign was considering seeking Russia's help with the 2020 elections. This lawsuit was dismissed on November 12, 2020 (see *supra*, Progress).¹¹¹⁶ The fourth lawsuit was filed on April 13 against WJFW-NBC, a small TV station and NBC affiliate in Wisconsin, for broadcasting an anti-Trump ad that the campaign called "false and defamatory," including that, according to the advertisement, the president had called the coronavirus "a hoax." After Trump lost the election, his campaign decided to drop the lawsuit.¹¹¹⁷

700. Likewise, the office of the Special Rapporteur highlights that a federal judge dismissed a \$400 million defamation suit filed by the lieutenant governor of Virginia against CBS for statements alleged to be defamatory in its reporting on two accusations against the official for alleged sexual violence.¹¹¹⁸ The official appealed the decision. Additionally, this Office highlights that on August 28, 2020, a federal judge ruled that a defamation suit filed by former Republican candidate Sarah Palin over a *New York Post* editorial linking one of her political action committee ads with a 2011 mass shooting in which Arizona Congresswoman Gabby Giffords was seriously injured would go to trial, where it must meet the actual malice standard. The Office of the Special Rapporteur underscores that the process continued despite the fact that the newspaper quickly issued a correction acknowledging that no link had been established between Palin's advertisement and the shooting.¹¹¹⁹

G. Publication of classified information and whistleblowers

701. The Office of the Special Rapporteur emphasizes its particular concern at the situation of WikiLeaks founder Julian Assange, who was deprived of liberty in the United Kingdom and whose extradition was requested by the United States on accusing him of crimes committed under the Espionage Act. Although the request for extradition was recently denied by British judge, the ruling does not end the underlying matter of the criminal charges brought by the governments of the United States, which puts his right to the exercise of freedom of expression in jeopardy. The Office of the Special Rapporteur also notes that the government of the United States appealed the court ruling, and the appeal is currently being processed.

¹¹¹² The Hill. December 26, 2020. [Judge dismisses Nunes's defamation suit against Washington Post](#); First Amendment Watch at New York University. January 4, 2021. [Federal Judge Dismisses Nunes's \\$250 Million Defamation Suit Against The Washington Post](#).

¹¹¹³ First Amendment Watch at New York University. November 18, 2020. [Rep. Devin Nunes Sues The Washington Post Again for Defamation](#); Law and Crime. November 18, 2020. [Rep. Devin Nunes Sues Washington Post in What May Be His Most Absurd Lawsuit Yet](#)

¹¹¹⁴ The New York Post. February 26, 2020. [Trump campaign sues New York Times for libel](#); CNBC. February 26, 2020. [Trump campaign sues The New York Times for libel over Russia opinion article](#).

¹¹¹⁵ The New York Times. March 3, 2020. [Trump Campaign Sues The Washington Post for Libel](#); The Washington Post. March 3, 2020. [Trump campaign sues Washington Post over opinion columns asserting link to Russian election interference](#).

¹¹¹⁶ CNBC. March 6, 2020. [Trump 2020 campaign sues CNN for libel over opinion article, following suits against Times and Post](#); First Amendment Watch at New York University. March 10, 2020. [President Trump Files Third Defamation Lawsuit, Targets CNN](#).

¹¹¹⁷ The New York Post. April 13, 2020. [Trump campaign sues NBC affiliate for 'defamatory' advertisement](#); Milwaukee Journal Sentinel. November 16, 2020. [Trump campaign agrees to drop its defamation lawsuit against a tiny Wisconsin TV station](#); First Amendment Watch at New York University. November 23, 2020. [Trump Settles Defamation Lawsuit Against Wisconsin TV Station](#).

¹¹¹⁸ First Amendment Watch at New York University. February 12, 2020. [Federal Court Dismisses Virginia Lt. Governor's \\$400 Million Defamation Suit Against CBS](#); NBC 12. July 28, 2020. [Lt. Gov. Fairfax files appeal in \\$400 million defamation lawsuit against CBS](#).

¹¹¹⁹ The Hollywood Reporter. August 6, 2019. [Sarah Palin Defamation Lawsuit against N.Y. Times Revived by Appeals Court](#); The New York Times. August 28, 2020. [Sarah Palin's Suit Against New York Times Will Go to Trial, Judge Rules](#); First Amendment Watch at New York University. September 1, 2020. [Federal Judge Rules that Palin's Defamation Suit Against New York Times Can Proceed to Trial](#).

702. The Office of the Special Rapporteur recalls that on April 11, 2019, Julian Assange was arrested by the Metropolitan Police in London, the United Kingdom, in the execution of an arrest warrant issued after he violated the conditions of his bail by entering the Ecuadorian Embassy in London to avoid extradition to Sweden in 2012 on charges of sexual assault and rape. He was also arrested on request by the United States for his extradition, initially for charges of conspiracy to commit a computer intrusion in connection with the publication of classified military information obtained by whistleblower Chelsea Manning. Julian Assange, the founder of WikiLeaks, had been living in the Ecuadorian Embassy in London since June 2012. He was arrested after Ecuador withdrew the diplomatic asylum it had granted him in August 2012.¹¹²⁰

703. This Office also recalls that on May 1, 2019, the founder of WikiLeaks was sentenced by a British court to 50 weeks in prison for violating his bail and failing to voluntarily turn himself over to the authorities.¹¹²¹ Additionally, as mentioned previously, the first charge filed by the United States alleges a conspiracy to crack a password stored on U.S. Department of Defense computers connected to the US government's network it uses to store classified documents and communications, the Secret Internet Protocol Network (SIPRNet).¹¹²² However, on May 23, the government of the United States presented a superseding indictment including 17 more charges under the Espionage Act. The new charges focused on the role the WikiLeaks founder played in obtaining and publishing secret military and diplomatic documents in 2010, information obtained by former U.S. Army intelligence analyst Chelsea Manning. According to the press release from the Department of Justice, the charges against Assange say he was complicit with Manning in unlawfully obtaining and disclosing classified documents related to the national defense and that he conspired with her, aided and abetted her, and received and attempted to receive classified information having reason to believe that such materials would be obtained contrary to law. The various charges say Assange "attempted to receive classified information" and "actively encouraged" Manning to provide more information. The Office of the Special Rapporteur notes that although the majority of the new charges were related to obtaining classified documents, some of them focus on the publication of certain documents that revealed the names of journalists, religious leaders, dissidents, and other persons in dangerous locations—such as war zones—who provided information to the United States.¹¹²³ The United States government formally requested Assange's extradition in June 2019.¹¹²⁴

704. In February 2020, the extradition hearings began, but were temporarily suspended due to the COVID-19 pandemic. They recommenced in September 2020.¹¹²⁵ On June 24, 2020, the Department of Justice of the United States filed a second superseding indictment. According to the Department of Justice, "The new indictment does not add additional counts to the prior 18-count superseding indictment returned against Assange in May 2019. It does, however, broaden the scope of the conspiracy surrounding alleged computer intrusions with which Assange was previously charged. According to the charging document, Assange and

¹¹²⁰ 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](#).

¹¹²¹ 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](#).

¹¹²² 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](#).

¹¹²³ 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](#).

in May 2019, since the statute of limitations on the other allegations had lapsed, in November 2019 the investigation was closed, since the prosecutor considered that "the evidence has weakened considerably due to the long period of time that has elapsed since the events in question." See, CNN. May 13, 2019. [Sweden re-opens Julian Assange rape investigation](#); BBC News. May 13, 2019. [Julian Assange: Sweden reopens rape investigation](#); CNN. November 19, 2019. [Sweden drops investigation into Julian Assange over rape allegation](#); BBC News. November 19, 2019. [Julian Assange: Sweden drops rape investigation](#).

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](#).

¹¹²⁴ 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](#).

¹¹²⁵ NBC News. February 23, 2020. [U.S. prosecutors to lay out case against Julian Assange at extradition hearing](#); The New York Times. February 24, 2020. [Julian Assange Faces Hearing on Extradition to the U.S.](#); Daily Mail. May 4, 2020. [Julian Assange's extradition case has been postponed and three-week hearing will restart on September 7, court hears](#); The Globe and Mail. September 10, 2020. [Julian Assange's extradition hearing postponed over COVID-19 concerns](#).

others at WikiLeaks recruited and agreed with hackers to commit computer intrusions to benefit WikiLeaks.”¹¹²⁶

705. On January 4, 2021, a British judge ruled to deny the request to extradite Julian Assange to the United States, finding that his mental health and the conditions in which he would probably be held in the United States could put him at extreme risk of committing suicide.¹¹²⁷ The United States appealed this decision in January 2021, and the appeal is being processed. The judge also denied bail to Julian Assange that would have allowed him to be released while the appeal was decided.¹¹²⁸

706. This Office takes note of the decision by British authorities to not extradite Mr. Assange due to his mental health, but notes that the court ruling does not resolve the matter at hand regarding the scope of freedom of expression for the publication of matters significantly in the public interest and the charges by the United States government, which seeks to punish Mr. Assange for, among other things, the exercise of his right to freedom of expression by publishing classified information of significant public interest that was provided to him. The court decision found that Assange’s actions went beyond the protection offered to a free press and he was not immune from criminal responsibility by simply arguing that he was acting as a journalist. Like other organizations have noted,¹¹²⁹ the Office of the Special Rapporteur highlights that this is the first time the United States has charged a person under the Espionage Act for receiving and publishing information considered to be in the public interest, directly challenging First Amendment protections.

707. The Office of the Special Rapporteur expresses concern at the precedent that these types of charges and the British court’s ruling could set for the exercise of freedom of expression by journalists and individuals who perform journalism work and research, especially on national security matters. Although the Office of the Special Rapporteur condemns the irresponsible publication of information that could endanger and expose the identities of sources—actions of which Mr. Assange is accused—this Office highlights that the reasoning of the British courts ruling sets a dangerous precedent for freedom of expression. Essentially, several of the actions and activities on which the charges are based are standard practice for investigative journalists and traditional media outlets, which seek out and publish information even if it is classified or confidential, and likewise protect their sources, all with the objective of informing society as a whole on matters of public interest. This sets a concerning precedent for investigative journalism and for people who work in journalism, who are also protected by the right to freedom of expression, as it puts them at risk of being prosecuted for receiving and publishing classified information, causing a chilling effect on journalism.

H. Source confidentiality

708. The Office of the Special Rapporteur observes with concern that journalists and media outlets continue to be subpoenaed during 2020, which has implications with regard to maintaining source confidentiality. The Office of the Special Rapporteur observes that several subpoenas aimed to secure material collected while covering protests. According to civil society, because these subpoenas are not public or are kept confidential, the figures do not necessarily reflect reality. As reported by the US Press Freedom Tracker and other organizations, at least 19 subpoenas were issued to journalists, media outlets, or third

¹¹²⁶ The United States Department of Justice. June 24, 2020. [WikiLeaks Founder Charged in Superseding Indictment. New Allegations Assert Assange Conspired With “Anonymous” Affiliated Hackers, Among Others](#); Reuters. June 29, 2020. [Assange surprised by timing of new U.S. indictment](#).

¹¹²⁷ The Guardian. January 4, 2021. [Julian Assange cannot be extradited to US, British judge rules](#); The New York Times. January 4, 2021. [U.K. Judge Blocks Assange’s Extradition to U.S., Citing Mental Health](#).

¹¹²⁸ Bloomberg. January 6, 2021. [Julian Assange Denied Bail During U.S. Extradition Appeal](#); AP News. January 6, 2021. [WikiLeaks founder Assange denied bail in UK](#); The Irish Examiner. January 19, 2021. [US lawyers lodge appeal against block on Julian Assange’s extradition](#).

¹¹²⁹ The New York Times. May 23, 2019. [Julian Assange’s Indictment Aims at the Heart of the First Amendment](#); Reporters Committee for Freedom of the Press (RCFP). May 30, 2019. [Special Analysis of the May 2019 Superseding Indictment of Julian Assange](#); Committee to Protect Journalists (CPJ). December 11, 2019. [For the sake of press freedom, Julian Assange must be defended](#); Council of Europe. Commissioner for Human Rights. February 20, 2020. [Julian Assange should not be extradited due to potential impact on press freedom and concerns about ill-treatment](#); International Federation of Journalists (IFJ). July 3, 2020. [Over 40 Rights Groups Call on UK to Free Julian Assange](#); UN News. January 5, 2021. [UN human rights expert ‘cautiously’ welcomes UK court’s refusal to extradite Julian Assange](#); Committee to Protect Journalists (CPJ). January 8, 2021. [A positive step for Julian Assange but a blow to press freedom](#)

parties (including social media networks and mobile phone companies) seeking testimony before courts, identification of sources, or the turning over of journalism materials, phone records, or private data.¹¹³⁰

709. The New York Police Department (NYPD) ordered Twitter to produce and turn over private data from October 9-14, 2019 (connection records, IP address history, and other related information) connected to the account of the *New York Post's* police bureau chief under the Patriot Act (an antiterrorism law passed after 9/11). The subpoena was related to photos of a crime scene that the journalist had tweeted. The NYPD withdrew the subpoena on February 12 after it was contacted by the newspaper's attorneys.¹¹³¹ Also, on July 14, a freelancer for the *Daily News* received a letter stating that their phone records had been obtained from their cellphone provider, AT&T, on orders from the NYPD. The records were being used in a leak investigation within the police department, which identified an NYPD officer who had been interrogated on threat of suspension as the individual allegedly responsible for the leak. The officer's alleged responsibility could not be proven. The journalist asked the company for a copy of the subpoena, but it refused citing company policy. An NYPD official told the *Daily News* that the subpoena was issued before the department changed its regulations about acquiring journalists' phone and social media records earlier this year, after the incident with the *New York Post* reporter. The NYPD Commissioner issued an apology for subpoenaing the information.¹¹³²

710. On December 1, U.S. Immigration and Customs Enforcement (ICE) subpoenaed *BuzzFeed News*, seeking information on the sources used in its reports on immigration programs and asking that the subpoena not be made public. *BuzzFeed News* refused to reveal its sources. After the report was published and the subpoena was criticized by several media outlets, on November 9, ICE said it would not enforce it and continue its investigation via other means.¹¹³³

711. The Office of the Special Rapporteur also observes that several subpoenas were issued ordering journalist or media outlets to turn over reporting material collected while covering various protests throughout the country over the death of George Floyd while in Minneapolis police custody. For example, on June 5, the Cuyahoga County Prosecutor in Ohio ordered news website Cleveland.com and *The Plain Dealer* to turn over unpublished material, including video footage, photographs, and audio recordings, on any "potential criminal activity" during the May 30, 2020, protests in Cleveland over Floyd's death.¹¹³⁴ A similar subpoena was issued on June 18 by the Seattle Police Department (SPD), ordering four large media outlets (KIRO 7 News, KING 5 News, KOMO 4 News, KCPQ News and the *Seattle Times*) to attend the hearing on June 29 with unpublished video footage and photographs taken during coverage of the May 30 protests from 3:30 to 5 p.m. The idea was that the media would contribute to an ongoing investigation to identify individuals who had allegedly stolen guns from police vehicles and started fires in the area and to recover two of the guns that had been stolen. The media outlets filed a motion for the subpoena to be dismissed based on the First Amendment, Washington state's Shield law, and because turning over the information would place them in a position that would discredit their independence in the eyes of the public and place journalists at risk in terms of their physical safety.¹¹³⁵

712. On July 31, 2020, the Seattle King County Superior Court granted the SPD's request and ordered the five media outlets to turn over the information, with some restrictions. The court concluded that the SPD "had fulfilled the statutory requirements of the qualified Washington shield law to obtain the material as it was relevant and necessary to their investigation; all alternative means to obtain the evidence had been exhausted

¹¹³⁰ U.S. Press Freedom Tracker. (n.d.). Available for consultation at: https://pressfreedomtracker.us/all-incidents/?categories=6&date_lower=2020-01-01&date_upper=2020-12-31&endpage=2; Committee to Protect Journalists (CPJ). (n.d.). Available for consultation at: <https://cpi.org/americas/usa/>

¹¹³¹ The New York Post. February 13, 2020. [NYPD tried to subpoena NY Post reporter's Twitter account citing anti-terror law](#); Committee to Protect Journalists (CPJ). February 14, 2020. [NYPD subpoenaed journalist's Twitter data, citing anti-terrorism law](#).

¹¹³² New York Daily News. July 17, 2020. [NYPD subpoenaed phone records of NYC reporter in effort to find department leaks: attorney](#); Committee to Protect Journalists (CPJ). July 27, 2020. [NYPD subpoenaed reporter's phone records in leak case](#).

¹¹³³ BuzzFeed News. December 4, 2020. [The Trump Administration Is Trying to Force BuzzFeed News to Divulge Its Sources With A Subpoena](#); Committee to Protect Journalists (CPJ). December 8, 2020. [US immigration agency subpoenas BuzzFeed News, seeking information on source](#).

¹¹³⁴ U.S. Press Freedom Tracker. June 5, 2020. [Ohio prosecutor subpoenas outlet for reporting materials from protest](#); Committee to Protect Journalists (CPJ). June 15, 2020. [Local prosecutor subpoenas Cleveland newsroom for protest material](#).

¹¹³⁵ U.S. Press Freedom Tracker. June 18, 2020. [Seattle Police Department subpoenas five news outlets for protest photos, videos](#); Seattle Times. July 3, 2020. [Seattle Times, other media fight Seattle Police Department subpoena for raw footage, photos of protest](#).

and there was a compelling public interest in the disclosure.”¹¹³⁶ The media outlets appeal the decision, and a suspension of the subpoena was granted while the Supreme Court of Washington reviewed the appeal. The SPD dropped the subpoena for information, as the appeal would delay the release of the requested images on till 2021 and one of the suspects had been arrested on September 4. The SPD therefore said it would not seek execution of the subpoena.¹¹³⁷

713. More recently, on December 16, 2020, a photojournalist from the *Democrat & Chronicle* was subpoenaed to testify before a grand jury in Rochester, New York, on the images she took during protests in Rochester sparked by the deaths of George Floyd and Daniel Prude. The photojournalist complied with the subpoena, but did not give information to compromise any of her sources.¹¹³⁸

714. Additionally, according to publicly available information, the Office of the Special Rapporteur observes that former American intelligence analyst Chelsea Manning, who was again deprived of liberty in May 2019, was released on March 12, 2020, one day after a suicide attempt, according to her legal team. The judge concluded that her testimony before a grand jury was no longer necessary, and therefore her detention had no coercive purpose. However, the judge left in place the requirement to pay the fines imposed for her refusal to testify, amounting to \$256,000.¹¹³⁹ The whistleblower was detained for civil contempt on having refused to testify before a grand jury and answer questions on the confidential information provided to Julian Assange, as well as the government’s investigations into the actions of Assange and WikiLeaks.¹¹⁴⁰

715. In view of the facts documented during 2020, this Office reminds the State that:

716. **Government authorities are called to maintain a discourse that favors public debate and freedom of expression.** The Special Rapporteurs of the IACHR and the UN, in their joint communication have “urged [the President] and his administration to cease efforts to undermine the media’s role of holding government accountable, honest and transparent,” indicating that “[t]hese attacks run counter to the country’s obligations to respect press freedom and international human rights law.”¹¹⁴¹ Although it is legitimate for politicians and public officials to criticize, correct or object to specific media reporting, when doing so, they should always be careful to ensure that their comments are accurate, avoid stigmatizing and discrediting the media, and do not threaten journalists or undermine respect for the independence of the media.¹¹⁴² This Office reiterates that public officials are called on to maintain a discourse that fosters public debate and ensure that their statements are not causing damage to the rights of those who contribute to the public debate through the expression and circulation of their thoughts. Public officials must refrain from making statements that expose journalists and media workers to greater risk of violence and must emphatically condemn attacks on journalists. The most senior officials must consistently, clearly, publicly, and firmly recognize the legitimacy and value of the work that journalists do, even when the information they disseminate is critical of the government or inconvenient to its interests.¹¹⁴³

¹¹³⁶ Global Freedom of Expression. Columbia University. July 23, 2020. [Seattle Police Department Subpoena for Protest Coverage No. SW No. 20-0-616926](#); Seattle Times. July 23, 2020. [Judge rules Seattle media companies must hand over unpublished protest images to police](#); U.S. Press Freedom Tracker. Update September 21, 2020. [Seattle Police Department subpoenas five news outlets for protest photos, videos](#).

¹¹³⁷ Reporters Committee for Freedom of the Press (RCFP). September 21, 2020. [Seattle police should not be able to subpoena journalistic work product, RCFP brief argues](#); U.S. Press Freedom Tracker. Update September 21, 2020. [Seattle Police Department subpoenas five news outlets for protest photos, videos](#).

¹¹³⁸ U.S. Press Freedom Tracker. December 9, 2020. [Multimedia journalist subpoenaed by grand jury](#); Democrat & Chronicle. December 16, 2020. [D&C photojournalist subpoenaed by the grand jury](#).

¹¹³⁹ The Guardian. March 12, 2020. [Judge orders Chelsea Manning’s release from jail in Virginia](#); The Guardian. March 12, 2020. [Chelsea Manning hospitalized after suicide attempt, legal team say](#); News 9. March 13, 2020. [Chelsea Manning Ordered Released From Prison, Fined \\$256,000](#).

¹¹⁴⁰ The Guardian. April 22, 2019. [Chelsea Manning to remain in jail after appeals court denies bail request](#); WUSA9. May 10, 2019. [Chelsea Manning released from jail in Virginia after being held on contempt charge](#); The Washington Post. May 16, 2019. [Chelsea Manning ordered back to jail after again refusing to testify in WikiLeaks case](#); Out. July 30, 2019. [Chelsea Manning Is Still In Jail](#); AP News. August 7, 2019. [Chelsea Manning gets credit for time served in contempt case](#). According to the article, a judge ruled that Manning can be held for no longer than 18 months for civil contempt.

¹¹⁴¹ IACHR. August 2, 2018. Joint Press Release R170/18. [Trump attacks on the media violate basic norms of press freedom, human rights experts say](#).

¹¹⁴² Office of the Special Rapporteur for Freedom of Expression. May 2, 2018. [Joint Declaration on Media Independence and Diversity in the Digital Age](#).

¹¹⁴³ I/A Court H. R. [Case of Perozo et al v. Venezuela. Preliminary Objections, Merits, Reparations and Costs](#). Judgment of January 28, 2009. Serie C No. 195. Par. 151 and ff.; IACHR. [Annual Report 2016. Annual Report of the Office of the Special Rapporteur for Freedom of](#)

717. **Social protest, which includes the rights to peaceful, unarmed assembly, association, and freedom of expression, is a fundamental tool for the defense of democracy and human rights.** The Commission has stated that “in principle, criminalization *per se* of demonstrations in public thoroughfares is inadmissible when they are carried out in exercise of the rights to freedom of expression and to freedom of assembly.”¹¹⁴⁴ Likewise, the Joint Declaration on Violence against Journalists and Media Workers in the Context of Protests, adopted in 2013, states that the rights of freedom of assembly and expression “are fundamental, and guaranteeing them is a vital condition to the existence and proper functioning of a democratic society. A State may impose reasonable limitations on demonstrations for purposes of ensuring that they are conducted peacefully, or to disperse those that turn violent, provided that such limits are governed by the principles of legality, necessity, and proportionality. In addition, the breaking-up of a demonstration must be warranted by the duty to protect individuals, and authorities must use the measures that are safest and least harmful to the demonstrators. The use of force at public demonstrations must be an exception, used under strictly necessary circumstances consistent with internationally recognized principles.” Consequently, the State has a duty to guarantee that journalists and communicators working during a public demonstration are not detained, threatened, attacked, or limited in any way with regard to their rights as a result of exercising their professions. Their work materials and tools must not be destroyed or confiscated by the authorities. The protection of freedom of expression requires authorities to ensure the necessary conditions for media workers to be able to cover noteworthy events of interest to the public, such as those involving public protests.¹¹⁴⁵ On June 8, 2020, the UN and IACHR Special Rapporteurs for Freedom of Expression issued a joint statement condemning the use of force against journalists covering protests in the United States, recalling that “[l]aw enforcement has the duty to ensure the safety of journalists who are covering protests and to guarantee the right of the public to seek and receive information about these social mobilizations.”¹¹⁴⁶ Also, the IACHR and its Special Rapporteur expressed grave concern at the number of reports of attacks on and arrests of journalists covering protests and indicated that the communicators were playing a central role in documenting the demands of demonstrators and in oversight of police actions.¹¹⁴⁷

718. **Government transparency and accountability strengthen democratic systems.** The Office of the Special Rapporteur underscores that, in the framework of the pandemic, “it is essential that governments provide truthful information about the nature of the threat posed by the coronavirus. Governments everywhere are obligated under human rights law to provide reliable information in accessible formats to all, with particular focus on ensuring access to information by those with limited internet [...]” Likewise, “the right of access to information means that governments must be making exceptional efforts to protect the work of journalists. Journalism serves a crucial function at a moment of public health emergency, particularly when it aims to inform the public of critical information and monitors government actions. [...] all

[Expression](#). Chapter IV (Silenced zones: Highly dangerous areas for the exercise of freedom of expression). OEA/Ser.L/V/II.Doc. 22/17, March 15, 2017. Par. 158.

¹¹⁴⁴ IACHR. [Report on Citizen Security and Human Rights](#). OEA/Ser.L/V/II.Doc. 57. December 31, 2009. Par. 197; IACHR. Office of the Special Rapporteur for Freedom of Expression. [Protest and Human Rights](#). OEA/Ser.L/V/II. CIDH/RELE/INF.22/19. September 2019.

¹¹⁴⁵ United Nations (UN) Special Rapporteur on the Protection and Promotion of the Right to Freedom of Opinion and Expression and Special Rapporteur for Freedom of Expression of the OAS Inter-American Commission on Human Rights. September 13, 2013. [Joint declaration on violence against journalists and media workers in the context of protests](#); IACHR. Office of the Special Rapporteur for Freedom of Expression. [Protest and Human Rights](#). OEA/Ser.L/V/II. CIDH/RELE/INF.22/19. September 2019.

¹¹⁴⁶ IACHR and UN. United Nations (UN) Special Rapporteur on the Protection and Promotion of the Right to Freedom of Opinion and Expression and Special Rapporteur for Freedom of Expression of the OAS Inter-American Commission on Human Rights. June 8, 2020. Press release 128/20. [United States: UN and OAS experts condemn use of force against journalists covering protests in the US](#). <http://www.oas.org/es/cidh/expresion/showarticle.asp?artID=1177&IID=2> The press release states: “**First**, federal, state and local authorities must afford media workers the highest degree of protection in order for them to perform their work freely. This obligation includes both the duty to avoid the use or threat of force against journalists and to protect journalists against third party violence. The targeting of media workers with lethal or less-lethal force for doing their work is prohibited under international human rights law and contrary to best policing standards. Those violating such rules must be subject to accountability and disciplinary processes. **Second**, public authorities should condemn attacks against journalists and promote the role played by the press. We repeat our previously raised serious concerns that statements by the President of the United States, especially his years-long attack on the media as an ‘enemy of the people,’ contribute to an environment of hostility and intolerance. **Third**, we are deeply concerned that the militarization of policing in the United States not only interferes with the right to peacefully assemble but also limits the ability of the press to cover protests. It encourages law enforcement to see protesters and journalists as belligerents, and we strongly encourage demilitarization and a reliance on international standards for the management of protests.”

¹¹⁴⁷ IACHR. June 8, 2020. [Press Release 129/20. The IACHR expresses strong condemnation for George Floyd's murder, repudiates structural racism, systemic violence against Afro-Americans, impunity and the disproportionate use of police force, and urges measures to guarantee equality and non-discrimination in the United States](#)

governments [must] to robustly implement their freedom of information laws to ensure that all individuals, especially journalists, have access to information.”¹¹⁴⁸ Likewise, the IACHR has held in its Resolution 1/20 on the Pandemic and Human Rights in the Americas that “States should not include communicators in restrictions on movement of people, and are obliged to allow all access to official press conferences, without discrimination based on editorial stance, with the exception of necessary and proportionate measures to protect health.” The resolution also underscored that “The bodies and officials that guarantee this right should give priority to requests for access to information related to the public health emergency, and also proactively report in detail on the impact of the pandemic and on emergency spending, and do so in an open format accessible to all vulnerable groups, in accordance with best practices internationally. If deadlines for requests for information on matters not linked to the pandemic have to be extended, governments should explain the denial, set a time period in which the obligation will be met, and allow for appeals against such decisions.”¹¹⁴⁹ Lastly, this Office highlights that during a health crisis like the one caused by the coronavirus, it is extremely important for States to comply with their obligation of active transparency and guarantee the availability of complete, timely, adequate, and necessary public information on the management of the crisis, based on scientific sources.

719. In the context of the pandemic, senior authorities must take special care with their statements and inform the population diligently and based reasonably on scientific information. This is because false, erroneous, and misleading information and deliberate disinformation can be harmful to public health.¹¹⁵⁰ The duty State authorities have to inform appropriately is based on the high degree of trust the public has in the information coming from the government,¹¹⁵¹ and therefore, governments must be sure to provide truthful and trustworthy information on the nature of the coronavirus threat.¹¹⁵² The Office of the Special Rapporteur observes that the role the State plays in this regard is crucial for citizens to have trustworthy information, especially in emergency contexts like the current one, where the dissemination of false, erroneous, or misleading information and deliberate disinformation on the Internet can lead to an “over-abundance of information – some accurate and some not – that makes it hard for people to find trustworthy sources and reliable guidance when they need it.”¹¹⁵³ This has led the WHO to refer to the health emergency as an “infodemic.”¹¹⁵⁴ In addition to the aforementioned State obligations, and in view of the proliferation of false and erroneous information, especially by social media, States also have an obligation to “counter misinformation regarding the pandemic in order to equip citizens with the information they need to protect their own and their communities’ health.” The IACHR has also underscored that Internet platforms have a duty to combat and be transparent with regard to false or erroneous information about the pandemic.¹¹⁵⁵

720. The establishment of criminal offenses for punishing the dissemination of disinformation or fake news could have a strong chilling effect on the dissemination of ideas, criticism, and information. The establishment of criminal offenses could roll the region back to a time of criminalizing expression

¹¹⁴⁸ IACHR. Special Rapporteurship for Freedom of Expression. March 19, 2020. Press Release R58/20. [COVID-19: Governments must promote and protect access to and free flow of information during pandemic – International experts](#)

¹¹⁴⁹ IACHR. Resolution No. 1/20. [Pandemic and Human Rights in the Americas](#). April 10, 2020. Par. 29, 32.

¹¹⁵⁰ IACHR. Resolution No. 1/20. [Pandemic and Human Rights in the Americas](#). April 10, 2020. Par. 34.

¹¹⁵¹ IACHR. [Inter-American Legal Framework Regarding the Right to Freedom of Expression](#). OEA/Ser.L/V/II CIDH/RELE/INF. 2/09. December 30, 2009. Par. 202.

IACHR. Special Rapporteurship for Freedom of Expression. March 19, 2020. Press Release R58/20. [COVID-19: Governments must promote and protect access to and free flow of information during pandemic – International experts](#)

¹¹⁵³ World Health Organization (WHO). February 3, 2020. [2019 Novel Coronavirus \(2019-nCoV\): Strategic Preparedness and Response Plan](#); Inter-American Dialogue. August 2020. [Covid-19 and Freedom of Expression in the Americas](#).

¹¹⁵⁴ World Health Organization (WHO). February 3, 2020. [2019 Novel Coronavirus \(2019-nCoV\): Strategic Preparedness and Response Plan](#); Inter-American Dialogue. August 2020. [Covid-19 and Freedom of Expression in the Americas](#). As highlighted by the Inter-American Dialogue, citing a UNESCO report, examples of “infodemics” include “false origin stories about the disease itself and advocacy of cures that are not scientifically proven and can be harmful. UNESCO has identified nine key areas of Covid-related-misinformation: 1) origins and spread of Covid-19; 2) false and misleading statistics; 3) economic impacts; 4) discrediting of journalists and credible news outlets; 5) medical science, symptoms, diagnosis and treatment; 6) impacts on society and the environment; 7) politicization; 8) content driven by fraudulent financial gain; 9) and celebrity-focused disinformation. Demand for information is especially high in the context of the Covid-19 pandemic, given its novel nature and severe health risks”. The Inter-American Dialogue cites in the aforementioned report the publication by the United Nations Organization for Science, Education and Culture (UNESCO), [Disinfodemic. Deciphering Covid19 Disinformation](#)https://en.unesco.org/sites/default/files/disinfodemic_deciphering_covid19_disinformation_es.pdf

¹¹⁵⁵ IACHR. Resolution No. 1/20. [Pandemic and Human Rights in the Americas](#). April 10, 2020. Par. 34..

regarding officials or matters of public interest and establishing a tool with a significant chilling effect on the dissemination of ideas, criticism, and information. Resolution 1/20 adopted by the IACHR underscores that any subsequent liability for the dissemination of information or opinions, based on the protection of public health interests must be established in law, in a way proportionate to the compelling interest behind it, and that it is strictly geared to the achievement of that legitimate objective.¹¹⁵⁶ High Commissioner Bachelet has stated likewise: "It is important to counter misinformation, but shutting down the free exchange of ideas and information not only violates rights, it undermines trust. False information about COVID-19 poses a huge risk to people. But so do bad policy decisions."¹¹⁵⁷

721. Freedom of expression is linked directly to political rights and their exercise, with both kinds of rights reciprocally strengthening each other. Healthy democratic debate requires the existence of a greater degree of circulation of ideas, opinions, and information with regard to the candidates, their parties, and their platforms during the period preceding an election, mainly via the media, from the candidates, and those wishing to express themselves. It is necessary for everyone to be able to question and investigate the abilities and suitability of the candidates, discussing and challenging their proposals, ideas and opinions so that the electorate can form an opinion on how to vote.¹¹⁵⁸ As the IACHR has noted, free speech and political debate are essential for the consolidation of democracy in societies, which is why they are of imperative social importance.¹¹⁵⁹ Without prejudice to this, the Commission has urged "public officials to cease speeches that encourage hatred or violence against officials and institutions that embody the rule of law."¹¹⁶⁰

722. Freedom of expression applies to the Internet the same as to other media outlets. The IACHR and its Office of the Special Rapporteur have underscored that "Mass blocking, content removal, the permanent suspension of users, or what has come to be known as "deplatforming," are severe measures that should be assessed in light of international standards on freedom of expression, particularly in the case involving information of public interest or public officials in the exercise of their duties. [...] In their role as guarantors of human rights, States are called upon to support this process by ensuring intermediary liability regimes that encourage technological development, provide legal certainty, and facilitate the implementation of human rights standards in all sectors while also respecting proposed mechanisms of multisectoral, open, and pluralistic internet governance."¹¹⁶¹ The Special Rapporteurs of the IACHR, the UN, and the ACHPR and the representative of the OSCE established in their 2016 Joint Declaration on Freedom of Expression and the Internet that "[n]o one who simply provides technical Internet services such as providing access, or searching for, or transmission or caching of information, should be liable for content generated by others, which is disseminated using those services, as long as they do not specifically intervene in that content or refuse to obey a court order to remove that content, where they have the capacity to do so ('mere conduit principle')."¹¹⁶² Regarding intermediary responsibilities, the special rapporteurs have indicated that "States should not subject Internet intermediaries to mandatory orders to remove or otherwise restrict content except where the content is lawfully restricted in accordance with [international] standards. States should refrain from pressuring, punishing or rewarding intermediaries with the aim of restricting lawful content. [...] At a minimum, intermediaries should not be required to monitor user-generated content and should not be

¹¹⁵⁶ IACHR. Resolution No. 1/20. [Pandemic and Human Rights in the Americas](#). April 10, 2020. Par. 33 - 34; IACHR. Special Rapporteurship for Freedom of Expression. March 19, 2020. Press Release R58/20. [COVID-19: Governments must promote and protect access to and free flow of information during pandemic – International experts](#); IACHR. Office of the Special Rapporteur for Freedom of Expression. October 2019. [Guide to guarantee freedom of expression regarding deliberate disinformation in electoral contexts](#) P.13

¹¹⁵⁷ Inter-American Dialogue. August 2020. [Covid-19 and Freedom of Expression in the Americas](#); UN. Office of the High Commissioner for Human Rights. April 27, 2020. [COVID-19: Exceptional measures should not be cover for human rights abuses and violations – Bachelet](#)

¹¹⁵⁸ I/A Court H. R. [Case of Ricardo Canese v. Paraguay. Merits, Reparations and Costs](#). Judgment of August 31, 2004. Serie C No. 111. Par. 90.

¹¹⁵⁹ IACHR. Arguments before the Inter-American Court in the case of Canese v. Paraguay. Transcribed at: [I/A Court H. R. Case of Ricardo Canese v. Paraguay](#).

¹¹⁶⁰ IACHR. January 8, 2021. [Press Release 005/21. IACHR Condemns Violence Against Congress and Against the Democratic Processes in the United States](#).

¹¹⁶¹ IACHR. Office of the Special Rapporteur for Freedom of Expression. February 5, 2021. Press Release No. 026/21. [IACHR Notes Inflection Point for Freedom of Expression on the Internet, Calls for Dialogue in the Region](#).

¹¹⁶² IACHR. Office of the Special Rapporteur for Freedom of Expression. May 4, 2016. [Joint Declaration on Freedom of Expression and Countering Violent Extremism](#).

subject to extrajudicial content takedown rules which fail to provide sufficient protection for freedom of expression (which is the case with many of the ‘notice and takedown’ rules currently being applied).”¹¹⁶³

723. **The use of criminal mechanisms to punish speech on matters of public interest, especially speech related to public officials, is incompatible with inter-American standards.** Regarding this, the IACHR and its Office of the Special Rapporteur have established that although using civil procedures as mechanisms of subsequent liability is less restrictive to freedom of expression for redressing any harm alleged, they must comply with the strict conditions derived from Article 13(2) of the American Convention.¹¹⁶⁴ Likewise, it should be recalled that the fear of a disproportionate civil penalty may, in any case, be equally or more intimidating and inhibiting for the exercise of freedom of expression than a criminal punishment, since it has the potential to attain the personal and family life of an individual who accuses a public official, with the evident and very negative result of self-censorship both in the affected party and in other potential critics of the actions taken by a public official.¹¹⁶⁵ Likewise, according to Principle 10 of the Declaration of Principles of the IACHR Declaration of Principles on Freedom of Expression, “The protection of a person’s reputation should only be guaranteed through civil sanctions in those cases in which the person offended is a public official, a public person or a private person who has voluntarily become involved in matters of public interest. In addition, in these cases, it must be proven that in disseminating the news, the social communicator had the specific intent to inflict harm, was fully aware that false news was disseminated, or acted with gross negligence in efforts to determine the truth or falsity of such news.”

724. **‘Whistleblowers should be protected from legal, administrative or employment-related sanctions if they act in good faith.** In a 2010 joint statement, the UN and IACHR Special Rapporteurs said that “[a]ny attempt to impose subsequent liability on those who disseminate classified information should be grounded in previously established laws enforced by impartial and independent legal systems with full respect for due process guarantees, including the right to appeal.” Other individuals, including journalists, media workers and civil society representatives, who receive and disseminate classified information because they believe it is in the public interest, should not be subject to liability unless they committed fraud or another crime to obtain the information.¹¹⁶⁶

725. **Every social communicator has the right to keep his/her source of information, notes, personal and professional archives confidential.** The Office of the Special Rapporteur expresses concern at these situations and recalls that any measure aimed at confiscating journalism materials that would involve turning over sources or calling journalists as witnesses has a chilling effect on freedom of expression.

¹¹⁶³ The United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples’ Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information. [Joint Declaration on Freedom of Expression and the Internet](#). June 1, 2011.

¹¹⁶⁴ IACHR. [Inter-American Legal Framework Regarding the Right to Freedom of Expression](#). OEA/Ser.L/V/II CIDH/RELE/INF. 2/09. December 30, 2009. Par. 110.

¹¹⁶⁵ I/A Court H. R. [Case of Tristán Donoso v. Panama](#), *supra*. par. 129, and [Case of Fontevecchia and D’Amico v. Argentina](#), *supra*. par. 74

¹¹⁶⁶ IACHR. Special Rapporteurship for Freedom of Expression. December 6, 2004. [International Mechanisms for Promoting Freedom of Expression. Joint Declaration](#). “Whistleblowers” are individuals releasing confidential or secret information although they are under an official or other obligation to maintain confidentiality or secrecy.

GRENADA

726. Although in 2012, Grenada became the first Caribbean country to decriminalize defamation, “seditious libel” remains codified as a crime. In this context, Freedom House points to cases in which public officials have filed criminal defamation complaints against media outlets and opposition politicians. Likewise, in 2020, the Office of the Special Rapporteur continues to note restrictions placed on journalism coverage of matters in the public interest.

A. Access to public information

727. According to publicly-available information, in July, a journalist was refused entry to the Grenville Magistrate’s Court upon having gone to cover a murder case. The journalist said that murder trials in Granada are open to the public, and therefore, denying the media access to the court amounts to withholding that right as guaranteed under the constitution. The journalists recalled that both the media and the police have a role to play in the preservation of the democratic process, and denying access to a public court proceeding is an infringement on their right to inform and the public’s right to know.¹¹⁶⁷

728. Additionally, according to the Inter-American Press Association (IAPA), during 2020, the media was denied access to Parliament, supposedly because of physical distancing guidelines implemented for the pandemic and the lack of space in the building. However, according to the IAPA, the building is designed to handle 200 visitors during sessions, along with 15 MPs, the Speaker, and the houses of parliament staff for sittings of the house.¹¹⁶⁸

B. Subsequent liability

729. According to publicly available information, Prime Minister Keith Mitchell filed a libel lawsuit against attorney Claudette Joseph, who is currently in charge of public relations for the National Democratic Congress (NDC), an opposition political party.¹¹⁶⁹ The head of State accuses Claudette Joseph of making defamatory statements against him insulting his good name, his position, and his reputation. According to a letter sent by a law firm hired by the Prime Minister, the statements are “completely false and malicious in all respect and were intentionally made by you to cause damage to our client’s reputation.” The lawsuit refers to a public statement made by Claudette Joseph in which she expressed concern at some of the facts set forth in an *Al Jazeera* documentary called “Diplomat Passports For Sale,” which, in the segment on Granada, commented on the failed Grenada Sustainable Aquaculture Project, in which foreign investors are supposedly being investigated for the disappearance of EC\$52.4 million from the project. When mentioning the matter,

¹¹⁶⁷ The Grenada Informer. July 24, 2020. [Media denied access to public hearing.](#)

¹¹⁶⁸ Inter-American Press Association (IAPA). [Report - 76th IAPA General Assembly](https://www.sipiapa.org/notas/1214096-caribe)https://www.sipiapa.org/notas/1214096-caribe. October 21 - 23, 2020.

¹¹⁶⁹ The New Today Grenada. July 31, 2020. [PM Mitchell files lawsuit against Claudette Joseph.](#)

Claudette Joseph said that the Prime Minister was also an investor in the project and suggested watching a YouTube video giving more information.¹¹⁷⁰

730. According to the information available, the Prime Minister is seeking with his lawsuit for this statement to not be repeated. He is also seeking an apology and payment of an indemnity of EC\$350,000. The NDC called the Prime Minister's decision to file a libel lawsuit against the party's public relations director "frivolous (...) vindictive (...) sinister, and vulgar." "This sinister and vulgar attempt is solely to subdue someone whom he perceives as a formidable political opponent standing against public corruption." In a public communication, the NDC urged the Prime Minister to "cease the vengeful practice that he has promoted for years during his time in public office" and called on the citizens of Granada to "protect our freedom of speech and defend our fundamental rights and liberties."¹¹⁷¹

731. In view of the facts set forth herein, the Office of the Special Rapporteur calls on the State of Granada to take special note that:

732. **Government transparency and accountability strengthen democratic systems.** In this regard, Principle 4 of the Declaration of Principles on Freedom of Expression of the IACHR establishes that, "Access to information held by the state is a fundamental right of every individual. States have the obligation to guarantee the full exercise of this right. This principle allows only exceptional limitations that must be previously established by law in case of a real and imminent danger that threatens national security in democratic societies." This Office also recalls that journalism is the primary and principle manifestation of freedom of expression, and in the context of the pandemic, it plays the crucial role of informing on critical issues and monitoring government actions. States have an obligation to permit all media outlets access to official press conferences, without discrimination based on editorial stance, with the exception of necessary and proportionate measures to protect health.¹¹⁷²

733. **The use of criminal mechanisms to punish speech on matters of public interest, especially speech related to public officials, is incompatible with inter-American standards.** Principle 11 of the Declaration of Principles on Freedom of Expression of the IACHR establishes: "Public officials are subject to greater scrutiny by society. Laws that penalize offensive expressions directed at public officials, generally known as 'desacato laws,' restrict freedom of expression and the right to information." This is justified by the fact that the activities they engage in are in the public interest and because they have voluntarily exposed themselves to stricter scrutiny and have enormous capacity to challenge the information through their convening power.¹¹⁷³ Likewise, the IACHR has held that the use of criminal law in these cases does not meet a pressing social need that would justify it; is unnecessary and disproportionate; and could be a means of indirect censorship, given its chilling effect on debate surrounding matters of public interest.¹¹⁷⁴

¹¹⁷⁰ Now Grenada. August 6, 2020. [NDC objects to PM's EC\\$350,000 defamation lawsuit against its PRO](#); Now Grenada. August 6, 2020. [Solidarity message for our sister PRO](#).

¹¹⁷¹ NDC. August 6, 2020. [Solidarity Message for our Public Relations Officer \(PRO\), Sister Claudette Joseph](#).

¹¹⁷² IACHR. Resolution No. 1/20. [Pandemic and Human Rights in the Americas](#). April 10, 2020.

¹¹⁷³ IACHR. Office of the Special Rapporteur for Freedom of Expression. [Annual Report 2009](#). OEA/Ser.L/V/II. Doc. 51. December 30, 2009. Par. 40

¹¹⁷⁴ IACHR. [Annual Report 2015. Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter V (Conclusions and Recommendations). OEA/Ser. L/V/II. Doc. 48. December 31, 2015.

GUATEMALA

734. Throughout 2020, journalists and the media continued to face a generally adverse scenario for the exercise of the right to freedom of expression, characterized by stigmatizing statements against the press from high-ranking authorities and the increase in aggressions, acts of harassment, and restrictions on the exercise their right to freedom of expression and access to information, particularly in the context of the health crisis caused by COVID-19. Likewise, the obstacles journalists have faced in carrying out their work since the pandemic began stand out, as well as the deficit in the availability of complete, timely, adequate, and necessary public information on the management of the health crisis.

735. On the other hand, the Office of the Rapporteur is concerned about the excessive use of force in the protests and the attacks perpetrated against journalists in the context of their coverage. In 2020, two journalists were murdered in Guatemala for reasons that, according to public information, could be related to the exercise of their journalistic work¹¹⁷⁵, facts that are aggravated by the lack of legal consequences showed by the impunity of these crimes. Finally, this Office is alarmed by the lack of progress in the implementation of protection mechanisms for journalists and social communicators, as well as the lack of adoption of a more just and inclusive legal framework for community radio broadcasting.

736. Based on the above, the Office of the Special Rapporteur observes with concern the continuous use of stigmatizing statements against journalists in Guatemala; the increase in attacks, threats, and acts of harassment against them, particularly to the detriment of women journalists; the use of criminal law as a mechanism for subsequent liabilities, the lack of legal recognition of community radio stations to guarantee the exercise of freedom of expression by indigenous peoples in their native languages, as well as the obstacles journalists have faced in accessing public information during the pandemic.

A. Progress

737. The Office of the Special Rapporteur for Freedom of Expression positively values the prominent role of the Human Rights Prosecutor in documenting restrictions on freedom of expression and journalistic work, as well as the implementation of mechanisms within the domestic legal system for the protection of this right. On April 4, 2020, the Human Rights Prosecutor [*Procurador de los Derechos Humanos*] (PDH) filed an *amparo* before the Constitutional Court of Guatemala (CC) against the Congress of the Republic due to the restriction it imposed on journalists from various media to access parliamentary sessions on April 2, 2020, under the pretext of compliance with the health measures adopted due to the pandemic caused by COVID-19 to avoid contagion. That day, parliament would have been discussing an international loan to face the crisis due to the coronavirus. The PDH filed the *amparo* claiming a “firm and imminent threat that access to journalists would

¹¹⁷⁵ IACHR. Office of the Special Rapporteur for Freedom of Expression. July 1, 2016. [Press Release R52/20. Office of the Special Rapporteur condemns the murder of journalist Bryan Guerra and calls on the State of Guatemala to expedite the creation of a protection mechanism for journalists](https://www.oas.org/es/cidh/expresion/showarticle.asp?artID=1168&IID=2)[http://www.oas.org/es/cidh/expresion/showarticle.asp?artID=1168&IID=2](https://www.oas.org/es/cidh/expresion/showarticle.asp?artID=1168&IID=2); Committee to Protect Journalists (CPJ). March 6, 2020. [Guatemalan journalist Bryan Guerra shot dead in Chiquimula](https://cpj.org/es/2020/03/asesinan-al-periodista-guatemalteco-bryan-guerra-e/)<https://cpj.org/es/2020/03/asesinan-al-periodista-guatemalteco-bryan-guerra-e/>; Committee to Protect Journalists (CPJ). November 18, 2020. [Guatemalan journalist Mario Ortega shot and killed](https://cpj.org/es/2020/11/asesinan-al-periodista-mario-ortega/); La Hora. November 14, 2020. [PDH condena asesinato de periodista Mario Ortega](https://www.lahora.com.gt/asesinato-de-periodista-mario-ortega/).

be restricted” and because in its opinion “Congress violated human rights and freedom of information, access to sources of information, and the right to freedom of freedom of expression by restricting the entry of journalists to the legislative chamber”.

738. As a result of this action, on May 5, 2020, the Constitutional Court granted a provisional *amparo* and ordered Congress to allow the access of journalists and their technical teams to directly cover the sessions and highlighted that, in the context of the coronavirus, it was necessary to adopt “sanitary measures to protect health and maintain the distance between the staff of the communication and broadcast media that are present to cover the source.” The Constitutional Court emphasized that “Article 35 of the Constitution establishes that the free emission of thought and free access to sources of information cannot be limited by any authority” and stressed that the Executive’s provisions by virtue of the coronavirus health emergency contained exceptions to the restrictions on freedom of movement and curfew, which included media personnel.¹¹⁷⁶

B. Murders

739. In 2020, the Office of the Special Rapporteur learned of two murders of journalists for reasons that could be related to their work. On February 27, 2020, the young journalist of the cable news channel *TLCOM*, Bryan Leonel Guerra, was the victim of an armed attack by unknown individuals in Chiquimula, Guatemala. The journalist died a few days later, on March 3, as a result of this attack. According to public information, he would have denounced death threats via social networks. The Attorney General’s Office informed on the start of the murder investigation¹¹⁷⁷, to date no progress has been reported.

740. Likewise, on November 10, two unidentified individuals shot Mario Ortega outside his home, in the southwestern city of San José, who died on November 14 from his injuries. Ortega was the founder of *San José Total*, a TV channel and digital news outlet where he also worked as a reporter in charge of covering local social and political issues, and reportedly received threats. The determination of the link between the crime and the journalistic work is in the hands of the Guatemalan authorities, who indicated that they had initiated the investigation.¹¹⁷⁸

C. Attacks, threats, intimidation, and criminalization as a mechanism of judicial harassment against journalists and the media

741. The Office of the Special Rapporteur observes that civil society reported at least 124 attacks against journalists and the media during 2020. In this regard, cases of obstruction of source were recorded in the country in the framework of the coverage of the COVID-19 pandemic, as well as threats, including death threats¹¹⁷⁹, attacks on women journalists, filing of defamation suits, physical and verbal assault, arbitrary detention, censorship, cyber-attack, and judicial harassment. In addition, two journalists were killed, as mentioned above.¹¹⁸⁰

¹¹⁷⁶ Comunicado de Prensa de la Corte de Constitucionalidad. Twitter account of Corte de Constitucionalidad @CC.Guatemala. [May 5, 2020-4:39 PM](#); Prensa Libre. May 5, 2020. [CC ampara a PDH y ordena al Congreso permitir ingreso de periodistas al hemiciclo parlamentario](#); Prensa Comunitaria. May 6, 2020. [La CC ordena permitir el ingreso de periodistas a las sesiones del Congreso](#).

¹¹⁷⁷ IACHR. Office of the Special Rapporteur for Freedom of Expression. July 1, 2016. [Press Release R52/20. Office of the Special Rapporteur condemns the murder of journalist Bryan Guerra and calls on the State of Guatemala to expedite the creation of a protection mechanism for journalists](#)<http://www.oas.org/es/cidh/expresion/showarticle.asp?artID=1168&IID=2>; Committee to Protect Journalists (CPJ). March 6, 2020. [Guatemalan journalist Bryan Guerra shot dead in Chiquimula](#)<https://cpj.org/es/2020/03/asesinan-al-periodista-guatemalteco-bryan-guerra-e/>; La Hora. March 4, 2020. [MP investiga muerte de comunicador en Chiquimula](#).

¹¹⁷⁸ Committee to Protect Journalists (CPJ). November 18, 2020. [Guatemalan journalist Mario Ortega shot and killed](#); La Hora. November 14, 2020. [PDH condena asesinato de periodista Mario Ortega](#). The Office of the Attorney General stated that “through the Municipal Agency of the Port of San José, in coordination with the Office of the Prosecutor for Crimes against Journalists, investigative procedures are being carried out after the armed attack against journalist Mario Ortega.” Twitter account of Ministerio Público de Guatemala @MPguatemala. [November 12, 2020-7:42 PM](#).

¹¹⁷⁹ Journalist Otoniel Esaú Rivera, current vice president of the Asociación de Periodistas y Comunicadores Sociales de Alta Verapaz, reported to the MP he had received death threats against him and his son, through Facebook, when he was livestreaming from that platform his testimony as a person suffering from Covid -19. CRN Noticias. September 1, 2020. [Cobán: Periodista denuncia amenazas de muerte tras compartir testimonio de COVID-19](#); Asociación de Periodistas de Guatemala (APG). September 23, 2020. [Comunicado de prensa APG 45-16-10-2020. La APG alerta ante el incremento de ataques y amenazas a periodistas](#). Available for consultation at: Archive of the Office of the Special Rapporteur for Freedom of Expression.

¹¹⁸⁰ Information shared by Convergencia por los Derechos Humanos with the Office of the Special Rapporteur for Freedom of Expression in July 2020. Available for consultation at: Archive of the Office of the Special Rapporteur for Freedom of Expression; Asociación de

742. The Office of the Special Rapporteur learned of various situations referring to episodes of attacks, threats, arbitrary arrests, and criminalization of journalists for reasons that could be linked to the exercise of journalism. It is highlighted, among many, the threats and harassment messages posted on Twitter against Sonny Figueroa of the digital medium *Vox Populi*¹¹⁸¹ and against Marvin del Cid of the medium *Article 35* stand out, as well as the sending of a threatening note on December 7, 2020 against both. The note was received in the mailbox of Marvin del Cid's home and it read "Marvin and Sonny stop investigating and publishing shit or you'll see".¹¹⁸² In addition, Sonny Figueroa was arrested and beaten on September 11 after he requested help from police personnel for having been robbed. When he pointed out that he was a journalist, the police officers refused to provide him with support and when he complained about this the police arrested him for an alleged scandal on public roads. According to the communicator, while he was detained a police agent, who had harassed him previously, arrived at the scene and began to record him without an official purpose. Photos of his arrest were leaked and posted on social media. Figueroa's arrest was carried out in circumstances of continuous harassment against him, allegedly because of his publications critical of the government. The journalist was released by a judge 17 hours later for lack of evidence, and two police officers allegedly responsible for his arrest were arrested on charges of abuse of authority.¹¹⁸³

743. The Office of the Special Rapporteur also expresses its concern over the arrest of community journalist Francisco Choc Xum, on June 11 while he was covering protests about a land dispute in Solalá, after the journalist was detained and beaten by protesters, which would have caused fractures in his ribs and bruises on various parts of his body. It is argued that, during said detention, ammunition was planted in Choc's bag, which is why the Police detained him for the alleged illegal possession of ammunition. After 8 days of detention, a judge released him because there was no merit to the charges¹¹⁸⁴. On the other hand, on April 18, an unknown individual allegedly entered the home of journalist Carlos Ernesto Choc in Izabal, and would have stolen only his work equipment. This act was considered by the journalist as an act of intimidation that could be related to his work due to his investigations regarding the shortage of water in a community near El Estor¹¹⁸⁵. Likewise, the Office of the Special Rapporteur observes that online threats and acts of harassment, as well as those coming from the so-called "netcenters"¹¹⁸⁶ continued during 2020.

744. Similarly, according to information provided by civil society, women journalists reportedly were the target of attacks on social networks, as well as within the framework of their journalistic coverage on the "International Day for the Decriminalization of Abortion." Journalist Carolina Gamazo of the digital media *No-Ficción* would have been insulted on social networks, where she would have been classified as a "prostitute" or "marijuana", also attacking her because of her nationality. Likewise, journalist Jovanna García (*Ruda*) was

Periodistas de Guatemala (APG). September 23, 2020. *Comunicado de prensa APG 45-16-10-2020. La APG alerta ante el incremento de ataques y amenazas a periodistas*. Available for consultation at: Archive of the Office of the Special Rapporteur for Freedom of Expression; Asociación de Periodistas de Guatemala (APG). November 29, 2020. *Estudio de situación de la libertad de expresión en Guatemala 2020. Un año desolador para la prensa en Guatemala*. Available for consultation at: https://twitter.com/APG_1947/status/1333050665573167104; DW. November 29, 2020. *Más de 100 agresiones a la prensa en Gobierno de Alejandro Giammattei; Artículo 19. November 30, 2020. Guatemala: la prensa sujeta a la violencia*.

¹¹⁸¹ Information shared by Red de Información contra la Impunidad en Guatemala with the Office of the Special Rapporteur for Freedom of Expression on May 2, 2020. Available for consultation at: Archive of the Office of the Special Rapporteur for Freedom of Expression.

¹¹⁸² [Artículo 19. December 8, 2020. Periodistas de Guatemala reciben amenazas a través de un mensaje dejado en su domicilio](#); Committee to Protect Journalists (CPJ). December 15, 2020. [Guatemalan journalists Marvin del Cid and Sonny Figueroa receive mailed threat](#)

¹¹⁸³ Asociación de Periodistas de Guatemala (APG). November 29, 2020. *Estudio de situación de la libertad de expresión en Guatemala 2020. Un año desolador para la prensa en Guatemala*. Available for consultation at: https://twitter.com/APG_1947/status/1333050665573167104; [Artículo 19. May 30, 2020. Elementos de Policía Nacional Civil de Guatemala intimidan a periodistas "por órdenes superiores"; Artículo 19. September 12, 2020. ARTICLE 19 condena agresión policiaca contra periodista Sonny Figueroa en Guatemala](#); [Listín Diario. September 13, 2020. Detienen por "escándalo" a periodista que investiga al Gobierno de Guatemala](#); [Prensa Libre. October 19, 2020. Aprehenden a policías que capturaron al periodista Sonny Figueroa](#).

¹¹⁸⁴ AP News. June 16, 2020. [Piden liberar a periodista indígena preso en Guatemala](#); AP News. June 19, 2020. [Ordenan liberar a periodista indígena en Guatemala](#); Committee to Protect Journalists (CPJ). June 17, 2020. [Guatemalan journalist Francisco Choc attacked by protesters, arrested while covering land dispute](#).

¹¹⁸⁵ Prensa Comunitaria. April 21, 2020. [Roban en la casa del periodista Carlos Choc al sureste de Guatemala](#); Committee to Protect Journalists (CPJ). April 21, 2020. [Journalist Carlos Choc's home robbed in southeast Guatemala](#).

¹¹⁸⁶ The term "net centers" describes contexts where people are hired for the dissemination of fake news and the creation of profiles on social networks that seek to attack and disseminate distorted information, more commonly called "trolls for hire". Asociación de Periodistas de Guatemala (APG). November 29, 2020. *Estudio de situación de la libertad de expresión en Guatemala 2020. Un año desolador para la prensa en Guatemala*. Pp. 48 and ff. Available for consultation at: https://twitter.com/APG_1947/status/1333050665573167104; Committee to Protect Journalists (CPJ). March 27, 2020. [Trust deficit: Guatemala's new president must overcome skepticism to improve press freedom](#).

threatened by a false profile, who told her that they knew where she was moved around and that “if they saw her, they would beat her and destroy her camera. The individual also told her that they expected she would be raped, or they would do it themselves.” For her part, Mercedes Vaidez (*Prensa Comunitaria*) reported being the victim of insults and harassment while she was covering a mobilization of the group “Chicas al Pedal”¹¹⁸⁷.

745. The Office of the Special Rapporteur highlights in a particular way, the detention of the community journalist Anastasia Mejía while she was covering protests, who was released after a house arrest measure was ordered, after being detained for approximately 38 days without pre-trial detention being ordered, and was linked to the process for the alleged commission of the crimes of sedition and attack, with aggravation of the penalty¹¹⁸⁸. The Office of the Special Rapporteur for Freedom of Expression pays special attention to the process against Anastasia Mejía given the public allegations about the use of criminal law as a potential tool to show a lesson to critical voices, a process that also takes on special importance when carried out with delays and against an indigenous journalist who did community journalism in native languages and for her status as a woman journalist and community leader. The prevalence of violence and an environment adverse to the exercise of freedom of expression raise serious concerns for the Office of the Special Rapporteur due to the lack of adequate measures for the prevention and protection of communicators and the media.

D. Prosecution

746. The Office of the Rapporteur highlights the creation of the Prosecutor's Office for Crimes against Journalists, in December 2019, a Section Prosecutor's Office, in order to strengthen and guarantee the right to freedom of expression and freedom of the press in the country. This Prosecutor's Office will be in charge of "hearing, investigating, and prosecuting the crimes committed against journalists when the facts aim to limit their human rights in the exercise of their functions, acts of intimidation, harassment, or retaliation for their activity".¹¹⁸⁹ According to the Attorney General's Office, the files that were active in the Unit for Crimes against Journalists of the Human Rights Prosecutor's Office will be transferred with the respective control and registration to the Section Prosecutor's Office.¹¹⁹⁰

747. While the Office of the Special Rapporteur considers the creation of a specialized Section Prosecutor's Office as positive, which would have previously consisted of an Unit under the Human Rights Prosecutor's Office, it highlights that during 2020 no significant progress has been identified in access to justice for murders and crimes against journalists. In this context, the IACHR highlights that, although investigations and criminal proceedings have been delayed due to the pandemic, despite virtual hearings in some cases¹¹⁹¹, high rates of impunity persist in Guatemala regarding crimes against journalists in the exercise of their professional work for many years, which generates a chilling effect for the exercise of freedom of expression. The foregoing also has serious consequences for democracy, which depends on a free, open, and dynamic exchange of ideas and information¹¹⁹². At least 23 journalists were killed between 2007 and 2020 for reasons

¹¹⁸⁷ Asociación de Periodistas de Guatemala (APG). November 29, 2020. *Estudio de situación de la libertad de expresión en Guatemala 2020. Un año desolador para la prensa en Guatemala*. P. 48 y ss. Available for consultation at: https://twitter.com/APG_1947/status/1333050665573167104; Iniciativa Mesoamericana de Mujeres Defensoras de Derechos Humanos. October 1, 2020. *Insultan, hostigan y amenazan físicamente y a través de redes sociales a periodistas feministas por dar cobertura a acciones en el marco de 28S*.

¹¹⁸⁸ IACHR. Office of the Special Rapporteur for Freedom of Expression. October 22, 2020. [Press release R258/20. The Office of the Special Rapporteur considers inadmissible the delay in the detention process of indigenous journalist Anastasia Mejía Triquis in a pandemic context and calls on the State of Guatemala to respect and guarantee her right to personal liberty and due process of law](#); Prensa Comunitaria. September 22, 2020. *Detienen a periodista Anastasia Mejía en Joyabaj, Quiché*; teleSUR. October 29, 2020. *Envían a arresto domiciliario a comunicadora guatemalteca*.

¹¹⁸⁹ Ministerio Público. December 6, 2019. *Ministerio Público inauguró Fiscalía de Delitos contra Periodistas*; DW. December 7, 2019. *Guatemala inaugura Fiscalía que investigará delitos contra periodistas*.

¹¹⁹⁰ Ministerio Público. December 6, 2019. *Ministerio Público inauguró Fiscalía de Delitos contra Periodistas*.

¹¹⁹¹ Prensa Libre. May 26, 2020. *Coronavirus: pandemia atrasa procesos penales hasta 2024*; Prensa Libre. June 29, 2020. *Audiencias virtuales: así conocen algunos jueces los debates*.

¹¹⁹² IACHR. Office of the Special Rapporteur for Freedom of Expression. *Annual Report 2013. Report of the Office of the Special Rapporteur for Freedom of Expression*. Chapter III (Violence Against Journalists and Media Workers). OEA/Ser. L/V/II. 149. Doc. 50. December 31, 2013. Par. 287.

allegedly linked to journalistic work, of which little progress has been observed in the investigations, identification, and punishment of those responsible¹¹⁹³.

748. In 2020, the Office of the Special Rapporteur learned of two murders of journalists for reasons that could be related to their work, as mentioned above. The murder of Bryan Leonel Guerra occurred on March 3, 2020, and while the Attorney General's Office reported on the opening of the corresponding investigation¹¹⁹⁴, to date no progress has been reported.

749. With regard to the obligation to prosecute the murders committed in previous years, the IACHR identifies progress in relation to the criminal proceeding derived from the murder of journalists Danilo Zapón López and Federico Salazar, which happened in 2015 and who worked as correspondents for *Prensa Libre* and *Radio Nuevo Mundo* in Mazatenango, department of Suchitepéquez. According to public information, the trial against the accused as the intellectual author of the crime, congress representative Julio Antonio Juárez Ramírez, began on November 16, 2020 before the High-Risk Court "B"¹¹⁹⁵, after the accusation by the Attorney General's Office and the closing of the intermediate stage¹¹⁹⁶. The start of the trial was moved up, as it was scheduled to start in January 2021.

750. According to the information available in the press, according to the investigations of the Attorney General's Office, the congress representative would have hired hitmen through intermediaries in order to assassinate Danilo Zapón López due to the investigations that the journalist carried out on the representative, including his problems with the tax administration¹¹⁹⁷.

751. On the other hand, the investigations carried out by the Office of the Prosecutor for Crimes against Journalists into the murder of journalists Álvaro Alfredo Aceituno López and Hamilton Hernández Vásquez and their families were transferred to the Special Prosecutor against Impunity [*Fiscalía Especial contra la Impunidad*] (FECI). The investigations will be carried out at the headquarters of the Prosecutor's Office located in Quetzaltenango, the department where the crimes took place. According to public information, "the Feci was strengthened with the Directorate of Criminal Investigations, criminal and financial analysts, as well as support personnel," which was "created to receive and follow up on investigations initiated by the CICIG"¹¹⁹⁸.

¹¹⁹³ IACHR. Annual Report 2015. [Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter II (Evaluation of the State of Freedom of Expression in the Hemisphere) OEA/Ser.L/V/II. Doc. 48/15. December 31, 2015; IACHR. [Annual Report 2016](#). [Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter II (Evaluation of the State of Freedom of Expression in the Hemisphere). OEA/Ser.L/V/II. Doc. 22/17. March 15, 2017; IACHR. [Annual Report 2017](#). Office of the Special Rapporteur for Freedom of Expression. Chapter II (Evaluation of the State of Freedom of Expression in the Hemisphere). OEA/Ser.L/V/II. Doc. 210/17. December 31, 2017; IACHR. [Annual Report 2018](#). [Report of the Office of The Special Rapporteur for Freedom of Expression](#). Chapter II (Evaluation of the State of Freedom of Expression in the Hemisphere). OEA/Ser.L/V/II. Doc. 30. March 17, 2019. IACHR. [Annual Report 2019](#). [Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter II (Evaluation of the State of Freedom of Expression in the Hemisphere). OEA/Ser.L/V/II. Doc. 5. February 24, 2020. The Office of the Special Rapporteur received information on at least two murders of journalists during 2020, which could be related to journalistic work. See also, UNESCO. Director-General's report on the safety of journalists and the danger of impunity. CI-20/COUNCIL.32/4. October 27, 2020. Annex B, p. 11-12. Available for consultation at: <https://unesdoc.unesco.org/ark:/48223/pf0000374700?posInSet=2&queryId=59f40786-004d-4e02-b22a-3c5f3fef2291>

¹¹⁹⁴ IACHR. Office of the Special Rapporteur for Freedom of Expression. July 1, 2016. [Press Release R52/20](#). [Office of the Special Rapporteur condemns the murder of journalist Bryan Guerra and calls on the State of Guatemala to expedite the creation of a protection mechanism for journalists](#)<http://www.oas.org/es/cidh/expresion/showarticle.asp?artID=1168&IID=2>; La Hora. March 4, 2020. [MP investiga muerte de comunicador en Chiquimula](#).

¹¹⁹⁵ La Hora. November 4, 2020. [Caso Periodistas: Feci recusa a jueza señalada de reunirse con G. Alejos](#); elPeriódico. November 17, 2020. [Se inicia juicio contra exdiputado por asesinato de periodista](#); ChapinTV. November 26, 2020. [Continúa el juicio contra el exdiputado Julio Juárez](#).

¹¹⁹⁶ CICIG. [Informe de Cierre. El Legado de justicia en Guatemala](#). 2019; elPeriódico. May 28, 2019. [Sindicado por asesinato de dos periodistas mazatecos declara en audiencia bajo reserva parcial](#); Prensa Libre. June 4, 2019. [Exdiputado Julio Juárez es enviado a juicio por asesinato de periodista de Mazatenango](#); Guatevisión. June 4, 2019. [Exdiputado Julio Juárez enfrentará juicio por muerte del periodista Danilo López](#); La Hora. June 4, 2019. [Exdiputado Julio Juárez es enviado a juicio por crimen contra periodistas](#).

¹¹⁹⁷ elPeriódico. June 4, 2019. [Suspendido diputado Julio Juárez va a juicio por la muerte de un periodista de Suchitepéquez](#); Soy502. June 4, 2019. [Diputado enfrentará juicio por asesinato de periodistas](#); elPeriódico. November 17, 2020. [Se inicia juicio contra exdiputado por asesinato de periodista](#). See also, teleSur/YouTube. January 20, 2018. [Inicia audiencia contra diputado guatemalteco Julio Juárez](#); Canal Antigua/YouTube. November 16, 2020. [Tribunal inició juicio contra exdiputado Julio Juárez](#); Nuestro Mundo/YouTube. January 17, 2017. [Conferencia de prensa del MP y la CICIG sobre asesinato de periodistas](#).

¹¹⁹⁸ Emisoras Unidas. September 30, 2020. [Trasladan a Feci de Quetzaltenango investigación sobre asesinato de periodistas](#); Publinews. September 30, 2020. [Feci Quetzaltenango investigará asesinato de dos periodistas](#).

E. Protection Mechanisms

752. The Office of the Special Rapporteur observes that the creation of the program to protect journalists and social communicators is a commitment adopted by the State of Guatemala, ratified by President Alejandro Giammatei¹¹⁹⁹, which has not been finalized to date. During the IACHR's on-site visit from July 31 to August 4, 2017, and on repeated occasions, both the IACHR and its Office of the Special Rapporteur have recommended to the State the creation of a program for the protection of journalists and media workers in Guatemala based on the situation of violence and the aggressions that journalists and communicators have faced for more than a decade in that country and have highlighted some of the guidelines that must be taken into account in the design and operation of protection programs for journalists¹²⁰⁰.

753. The State informed the IACHR that “through the Division for the Protection of Persons and Security [DPPS] of the National Civil Police, protection is provided in accordance with risk analysis [...] and the specific security needed by the victim [is determined] either of personal protection, perimeter, or mountain range”¹²⁰¹. While the IACHR considers these measures to be positive, it highlights the importance of creating a special protection mechanism, due to the particular circumstances of violence against journalists in Guatemala. As indicated in previous reports¹²⁰², although the Office of the Special Rapporteur received from the Government on February 21, 2018 a draft decree that would launch the program, and sent a technical analysis and a series of recommendations, there was no progress or concrete actions on the matter of prevention and protection of violence against journalists during 2020. Given that the situation of violence against journalists continues and there is a commitment to structure a protection program, the Office of the Special Rapporteur for Freedom of Expression invites the State of Guatemala to consider the opening of spaces to promote and facilitate the implementation of the mechanism to protect journalists; and if the State so considers it, the full availability of this Office to provide technical support is anticipated.

F. Stigmatizing statements

754. The Office of the Special Rapporteur for Freedom of Expression notes with concern the ease with which public leaders and persons occupying positions as guarantor of human rights resort to stigmatizing statements that in themselves affect the conditions for a plural public debate and have the potential to increase the risk for journalists.

755. The Office of the Special Rapporteur notes that in Guatemala there has been a trend towards the stigmatization and disqualification of journalists and the media critical of the Government that stems from the highest-ranking authorities, which puts at risk the free exercise of journalistic work and undermines the obligation to “adopt a public discourse that contributes to preventing violence against journalist”.¹²⁰³ Stigmatizing statements, on the contrary, expose journalists to a greater risk of acts of violence¹²⁰⁴ and place them in a greater situation of vulnerability than they might already be due to the nature of their work, since the content of such statements can even be interpreted by individuals and groups of individuals in such a way that acts of violence are committed and obstacles to their journalistic work are placed.¹²⁰⁵ This situation has

¹¹⁹⁹ elPeriódico. June 17, 2020. [Programa de protección de periodistas](#).

¹²⁰⁰ IACHR. [Annual Report 2018. Chapter V \(Guatemala\)](#). OEA/Ser.L/V/II. Doc. 30. March 17, 2019. Par. 227; IACHR. Office of the Special Rapporteur for Freedom of Expression. July 1, 2016. [Press Release R52/20. Office of the Special Rapporteur condemns the murder of journalist Bryan Guerra and calls on the State of Guatemala to expedite the creation of a protection mechanism for journalists](#)

¹²⁰¹ República de Guatemala. Informe del Estado de Guatemala sobre el cumplimiento de las recomendaciones contenidas en el Informe “Situación de los derechos humanos en Guatemala” de la CIDH del 31 de diciembre de 2017. Received on October 23, 2020.

¹²⁰² IACHR. [Annual Report 2018. Chapter V \(Guatemala\)](#). OEA/Ser.L/V/II. Doc. 30. March 17, 2019. Par. 224 - 225; IACHR. [Annual Report 2019. Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter V. Guatemala. OEA/Ser.L/V/II. Doc. 5. February 24, 2020. Par. 238.

¹²⁰³ United Nations (UN) Special Rapporteur on the Protection and Promotion of the Right to Freedom of Opinion and Expression and Special Rapporteur for Freedom of Expression of the OAS Inter-American Commission on Human Rights. September 13, 2013. [Joint declaration on violence against journalists and media workers in the context of protests](#).

¹²⁰⁴ IACHR. [Annual Report 2016. Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter IV (Silenced zones: Highly dangerous areas for the exercise of freedom of expression). OEA/Ser.L/V/II.Doc. 22/17., March 15, 2017. Par. 158.

¹²⁰⁵ I/A Court H. R. [Case Ríos et al v. Venezuela. Preliminary Objections, Merits, Reparations and Costs](#). Judgment of January 28, 2009. Serie C No.194. Par. 142, 143 and 148, and [Case of Perozo et al v. Venezuela. Preliminary Objections, Merits, Reparations and Costs](#). Judgment of January 28, 2009. Serie C No. 195. Par. 154, 155 and 160.

persisted with the new government, after the inauguration of President Giammattei on January 14, 2020, in particular, due to journalistic coverage during the COVID-19 pandemic.

756. It is of particular concern to the IACHR and its Office of the Special Rapporteur that on January 20, shortly after the start of the new government, the President of Guatemala, during a press conference, questioned the journalistic work of Marvin del Cid, a contributor to the newspaper *Prensa Libre*, by publicly expressing: “[i]t seems to me that this man has it out for us. Yes, he’s out for us [...], because he has dedicated himself to doing a series of investigations based on, I don't know what and we ourselves consider that he is exceeding his limits. I can document your last four investigations, which have a dedication, I wish I knew who is telling you to investigate us in that way”. This statement was made within the framework of investigations carried out by the journalist on close friends and the president's circle of influence.¹²⁰⁶

757. Likewise, in March, when leaving Congress, the president sprayed with a bactericide the journalists who were at the entrance to the compound, saying it was an “anti-journalist” spray¹²⁰⁷. A few days later, when he referred to the curfew that would be imposed, he said: “I would like to put a curfew on the media, but it can't be done”.¹²⁰⁸ Likewise, on April 11, the president announced that he would only disclose the sex and age of people infected with coronavirus, in order to prevent the press from publishing sensitive information about patients, since it only seeks to “create scandals”¹²⁰⁹, which was denied by the press. In addition, he accused the press of trying to generate divisions in the framework of the measures adopted for the coronavirus¹²¹⁰ and pointed out that he has been the president most criticized for the work for which he was elected, despite “the 20 *pelones* [baldies]” who oppose what he is doing and “to the fake news” that he claims has been published against him.¹²¹¹ Other authorities have also spoken out against *La Hora* journalists and a *Prensa Libre* cartoonist.¹²¹²

758. On the other hand, President Alejandro Giammattei, in a solemn session before the Congress of the Republic on September 15, 2020, on the occasion of the celebration of 199 years of independence, made a speech in which he referred in a special way to the right to freedom of expression. In the framework of a generally adverse scenario for the exercise of the right to freedom of expression, characterized by stigmatizing statements against the press by high-ranking authorities in Guatemala, the president declared that “we believe in the freedom that some bad Guatemalans have confused and they take advantage of to intimidate, attack, defame, and even commit crimes against their neighbor. Freedom is part of the essence of

¹²⁰⁶ Prensa Comunitaria. January 22, 2020. [Presidente Giammattei ataca a periodista que investigó a sus asesores](#); Artículo 19. January 24, 2020. [Organizaciones en favor de la libertad de expresión condenamos actuación del presidente de Guatemala, en el caso del periodista Marvin Del Cid](#).

¹²⁰⁷ Noticias Telemundo/Youtube. March 19, 2020. [Presidente de Guatemala es criticado por supuesta "broma pesada"](#); La Silla Rota. March 20, 2020. [Presidente de Guatemala "desinfecta" a periodistas por COVID-19](#).

¹²⁰⁸ Publinews. March 21, 2020. [Giammattei: "Yo quisiera ponerle toque de queda a los medios, pero no se puede"](#); Reporters Without Borders (RSF). May 8, 2020. [Guatemala. Don't put the Guatemalan press in quarantine!](#).

¹²⁰⁹ Nómada. April 12, 2020. [Presidente Giammattei: la prensa no es su enemiga, deje de ocultar los datos del COVID-19](#); APNews. April 13, 2020. [Guatemala: Periodistas denuncian acoso y censura de gobierno](#).

¹²¹⁰ LaHora. August 14, 2020. [Giammattei dice: "Yo jamás dije que la responsabilidad no era mía"](#); Asociación de Periodistas de Guatemala (APG). November 29, 2020. [Estudio de situación de la libertad de expresión en Guatemala 2020. Un año desolador para la prensa en Guatemala](#). P. 16. Available for consultation at: https://twitter.com/APG_1947/status/1333050665573167104.

¹²¹¹ Soy502. October 15, 2020. [Giammattei: "No ha habido Presidente tan atacado como yo"](#); Asociación de Periodistas de Guatemala (APG). November 29, 2020. [Estudio de situación de la libertad de expresión en Guatemala 2020. Un año desolador para la prensa en Guatemala](#). P. 16. Available for consultation at: https://twitter.com/APG_1947/status/1333050665573167104.

¹²¹² When a reporter for *la Hora* requested a statement from Congressman Alejos, he replied “We do not give statements to media that are mired in corruption.” *La Hora*. May 28, 2020. [Felipe Alejos contesta con narrativa de video anónimo publicado en enero](#); On the other hand, Alfredo Morales better known as “Fo”, a cartoonist for *Prensa Libre*, posted a cartoon in which he portrayed the chairman of Congress alongside a map of Guatemala, with the legend “state of calamity”, connected to the same tank of oxygen. “Fo’s criticism took place in the context of the chairman of Congress’s hospitalization in the Centro Médico Militar [for having been infected with Covid-19], although Congress itself did not authorize the use of this hospital to care for non-military patients affected by Covid and the publication of a journalistic piece on this hospital having received funds meant for the health emergency, but that had not cared for a single civilian”. Cartoonist Fo’s drawing provoked criticism among some deputies who “condemned” the post and even asked for sanctions against the person responsible. These congressmen’s reaction also served as a pretext for net centers to attack Fo and *Prensa Libre*. Asociación de Periodistas de Guatemala (APG). November 29, 2020. [Estudio de situación de la libertad de expresión en Guatemala 2020. Un año desolador para la prensa en Guatemala](#). P. 30. Available for consultation at: https://twitter.com/APG_1947/status/1333050665573167104. One deputy tweeted: “One thing is freedom of expression and another is making fun of a person who is fighting for his life. This cartoon is frankly reprehensible. I demand that PDH @JordanRodas publicly condemn this as a violation of human dignity. What a shame on @prensa_libre for publishing this”. Twitter account of congressman Álvaro Arzú @AlvaroArzuE. [July 30, 2020-9:42 AM](#).

the human being and it is its ability to decide freely”.¹²¹³ Likewise, he expressed that “freedom is one of our most precious assets because it gives us the happiness to think, to express ourselves without coercion and without fear, it would be useless to speak of freedom of thought if it is not possible to express ourselves but expressing oneself means a very great responsibility that should be taken seriously. The development of ideas, ideologies, and different ways of understanding our reality, represents a fundamental part of freedom of expression. Freedom of expression has a limit, and the limit is the truth”.¹²¹⁴

759. In this regard, the Office of the Special Rapporteur recalls that the inaccuracy or lack of objective adaptation to the truth of information is not, by itself, illegitimate nor does it escape the protection granted under freedom of expression. In the first place, it is necessary to distinguish between concrete facts and possible factual verification of value judgments. In the latter case, which are also part of the right to freedom of expression, it is impossible to talk about the veracity of the information.¹²¹⁵

760. Second, with respect to the facts that can be factually verified, the Inter-American Court established since the Advisory Opinion OC-5/85 on compulsory association of journalists that the requirement of a control system for the right of expression in the name of an alleged guarantee of correctness and veracity of the information that society receives can be a source of great abuses and, ultimately, violates the right to information that that same society has.¹²¹⁶ This requirement not only generates self-censorship and inhibition of social communicators and the limitation of the maximum flow of information in society, but also implies the imposition of an understanding of the truth in accordance to the will of the State, when deciding on the limits of the right. Likewise, the Commission has considered that a norm that obligates whoever criticizes of public officials to guarantee factual statements has disturbing consequences for the criticism of government conduct and has considered that the accuracy of the news in general is an end that can be achieved more effectively through positive governmental measures, such as guaranteeing plurality of information, than through the imposition of sanctions in the event of information that is perceived as "inaccurate" or "lacking in veracity".¹²¹⁷

G. Social Protest

761. Through Government Decree 5-2020, of March 5, 2020, the president decreed a “State of Public Calamity” throughout the national territory, as a consequence of the pandemic caused by the COVID-19 virus, which ended as of 1 October 2020.¹²¹⁸ Although the aforementioned decree did not limit the right to freedom of expression, it restricted, among others, the freedom of movement and the right of assembly and demonstration.¹²¹⁹ Likewise, the IACHR and its Office of the Special Rapporteur note that during 2020 states of siege and prevention were issued in different municipalities, in order to combat organized crime, which has been interpreted by some sectors as an excuse to repress social movements and limit the right to protest. Through the ordered states of siege, the rights to freedom of movement, demonstration, and assembly, among

¹²¹³ La Hora. September 15, 2020. [Giammattei: La libertad de expresión tiene un límite y el límite es la verdad](#); elPeriódico. September 16, 2020. [“La libertad de expresión tiene un límite”, dice Giammattei](#); Nómada. September 21, 2020. [Enfoque: La libertad de expresión no tiene límite...](#)

¹²¹⁴ República de Guatemala, Informe del Estado de Guatemala sobre el cumplimiento de las recomendaciones contenidas en el Informe “Situación de los derechos humanos en Guatemala” de la CIDH del 31 de diciembre de 2017. Received on October 23, 2020.

¹²¹⁵ I/A Court H. R. [Case of Eduardo Kimel v. Argentina: Merits, Reparations and Costs](#). Judgment of May 2, 2008. Serie C No. 177. Par. 93, and [Case of Tristán Donoso v. Panama: Preliminary Objections, Merits, Reparations and Costs](#). Judgment of January 27, 2009 Serie C No. 193. Par. 124.

¹²¹⁶ I/A Court H. R. [Compulsory Membership in an Association Prescribed by Law for the Practice of Journalism \(Arts. 13 and 29 American Convention On Human Rights\)](#) Advisory Opinion OC-5/85 of November 13, 1985. Serie A No. 5. Par. 77

¹²¹⁷ IACHR. [Annual Report 2001](#). Annual Report of the Office of the Special Rapporteur for Freedom of Expression. Chapter IV (Media Ethics). OEA/Ser.L/V/II. 114. Doc. 5. Rev. April 16, 2002. Par. 13 - 14. Principle 7 of the Commission's Declaration of Principles on Freedom of Expression states that “Prior conditioning of expressions, such as truthfulness, timeliness or impartiality is incompatible with the right to freedom of expression recognized in international instruments”. IACHR. [Declaration of Principles on Freedom of Expression](#). 2000.

¹²¹⁸ República de Guatemala. Informe del Estado de Guatemala sobre el cumplimiento de las recomendaciones contenidas en el Informe “Situación de los derechos humanos en Guatemala” de la CIDH del 31 de diciembre de 2017. Received on October 23, 2020. See also, CNN Español. March 5, 2020. [Giammattei decreta el estado de calamidad en Guatemala como prevención ante el coronavirus](#); Prensa Libre. September 30, 2020. [Giammattei anuncia el fin del estado de Calamidad y llama a cumplir y exigir que se cumplan los protocolos](#)

¹²¹⁹ República de Guatemala. Decreto Gubernativo No. 5-2020. Published on March 6, 2020 by Diario de Centro América. Available for consultation at: <https://www.contraloria.gob.gt/wp-content/uploads/2020/07/Decreto-Gubernativo-5-2020-COVID-19.pdf>

others, were also restricted.¹²²⁰ Both the state of public calamity, siege, and prevention were dictated based on the Public Order Law of 1965.

762. The Office of the Special Rapporteur observed the development of different social protests in Guatemala during the current year in demand for measures adopted by the Government in the framework of the COVID-19 pandemic due to lack of access to food; due to the criminalization and censorship to which the profession has been subjected; and in particular, due to the protests that took place during the month of November due to popular discontent of the approval of the national budget for 2021 by the Congress of the Republic.

763. As a sign of protest and citizen claim for the lack of access to food due to the sanitary measures ordered by the pandemic, different individuals and families placed white flags outside their homes. The white flags represent a symbol of hunger. This measure initially arose in the small community of Patzún, about 50 kilometers from Guatemala City, which was replicated in other areas of the capital and the country, and also in El Salvador.¹²²¹

764. Likewise, a parade of victims, simulating a "funeral procession", as well as blocking streets took place as protest to the government policies aimed at preventing the spread of the coronavirus and the lack of social and economic support to address the health crisis.¹²²² In the same way, doctors and health personnel declared themselves in a general assembly due to the lack of payment of salaries and the shortage of materials and medical supplies for their safety and care for the sick. "The main response has been the disqualification of doctors, coupled with the government's remarks that hospitals are supplied".¹²²³

765. Likewise, on November 3, 2020, a score of journalists expressed their dissatisfaction in front of the Attorney General's Office for the criminalization and censorship of their profession, as well as for the arrest and criminal proceedings initiated against their indigenous k'iche' colleague Anastasia Mejía Tiriquiz.¹²²⁴

766. On the other hand, it is of special concern the repression, detentions, attacks on journalists, and the excessive use of force in the development of the protests that began on November 21 in different parts of Guatemala¹²²⁵, on the occasion of the approval of the budget for the 2021 year. While this fact was the trigger, there were also "claims of rejection of corruption, questions about the destination of resources to tend to the Covid-19 pandemic and in general a social, economic, and political crisis that is dramatically worsened by hurricane season"¹²²⁶. The days of protests brought together high numbers of protesters, who were indiscriminately repressed with excessive use of force, including tear gas, pressured water, beatings, and arbitrary arrests were reportedly made. The Office of the Special Rapporteur learned of the attacks on the part of individuals and/or the police against at least seven journalists while they were carrying out their work

¹²²⁰ DW. July 19, 2020. [Guatemala decreta estado de sitio en cinco municipios contra el crimen organizado](#); Insight Crime. July 27, 2020. [Guatemala impone estado de sitio con el pretexto de combatir el crimen organizado](#). La Hora. February 5, 2020. [Giammattei decreta Estado de Prevención en Chimaltenango](#); Prensa Libre. January 17, 2020. [Alejandro Giammattei declara estado de Prevención en Mixco y San Juan Sacatepéquez](#); República de Guatemala. Decreto Gubernativo No. 1-2020. Published on January 17, 2020 by Diario de Centro América. Available for consultation at: https://www.minfin.gob.gt/images/downloads/leyes_acuerdos/DECRETO1-2020_220120.pdf; Information shared by Convergencia por los Derechos Humanos with the Office of the Special Rapporteur for Freedom of Expression in July 2020. Available for consultation at: Archive of the Office of the Special Rapporteur for Freedom of Expression..

¹²²¹ El Diario. April 24, 2020. [Las banderas blancas, símbolo del hambre, empiezan a asomarse en Guatemala](#); Reuters. May 21, 2020. [Con banderas blancas, salvadoreños y guatemaltecos piden comida durante crisis por coronavirus](#).

¹²²² Artículo 19. August 31, 2020. [Bajo sentencia: la censura en Cuba, Guatemala y Honduras](#); EFE. April 29, 2020. [Un "cortejo de víctimas" desfila en Guatemala en protesta contra el Gobierno](#); Radio Bilingüe. May 15, 2020. [Drástico cierre económico por coronavirus genera protestas en Guatemala](#).

¹²²³ Artículo 19. August 31, 2020. [Bajo sentencia: la censura en Cuba, Guatemala y Honduras](#); CNN Español. June 10, 2020. [Médicos de pacientes de covid-19 en Guatemala exigen sus salarios](#); Prensa Libre. June 30, 2020. [Coronavirus: cuáles son las primeras anomalías detectadas por la nueva ministra de Salud](#).

¹²²⁴ La Vanguardia. November 3, 2020. [Periodistas guatemaltecos protestan contra la criminalización y censura](#); La Cuerda. November 4, 2020. [Periodistas y libertad de expresión en riesgo en Guatemala](#).

¹²²⁵ BBC. November 21, 2020. [Las protestas en Guatemala que provocaron un incendio en las instalaciones del Congreso](#); BBC. November 23, 2020. [Protestas en Guatemala: 3 claves para entender las movilizaciones que acabaron con el Congreso en llamas](#); Prensa Libre. December 3, 2020. [5D: Anuncian nuevas manifestaciones este sábado contra el Congreso y el Gobierno](#); teleSUR. December 9, 2020. [Bloquean carreteras de Guatemala en protesta contra el Gobierno](#); CNN. December 10, 2020. [Varios grupos de manifestantes protestarán para pedir la renuncia del presidente de Guatemala](#).

¹²²⁶ IACHR. November 23, 2020. [Press Release 281/20. IACHR Condemns Excessive Use of Force and Urges Investigation of All Forms of Violence During Social Protests in Guatemala](#).

in the coverage of the protests. The attacks against the documentary filmmaker Melissa Mencos stand out. She was beaten and detained by the police, however, later released, when the inadmissibility of her arrest was declared due to her condition as a journalist; against the feminist journalist Jovanna García, who was allegedly reprimanded by a hooded man who yelled at her "infiltrated feminist" and who hit her with an iron pipe in the abdomen; and against the photojournalist Carlos Sebastián, who was beaten with batons by the police on various parts of the body, including in the head, which caused a serious injury.¹²²⁷ The Office of the Special Rapporteur highlights that a fragment of the video of the attack on Carlos Sebastián was disseminated on social networks that, in a decontextualized way, implied that the photojournalist had attacked the police. However, the video with the complete sequence of the attack was later released, in which the Office of the Special Rapporteur identified that an anti-riot police agent attacked the photojournalist, so he reacted by arguing over the damage to his journalistic equipment, after which several agents hit him with clubs, causing a head injury.¹²²⁸

767. These abuses against the press led a group of 133 Guatemalan journalists, communicators, and analysts to demand that the government, in a public statement, respect freedom of the press and end the threat of police abuse.¹²²⁹ The Office of the Special Rapporteur appreciates that the Office of the Prosecutor for Crimes against Journalists announced the initiation of an *ex officio* investigation, following the attacks against journalists during the demonstration on Saturday, November 21.¹²³⁰

H. Censorship, restrictions on freedom of expression, and access to information during the COVID-19 pandemic

768. As previously mentioned, on March 5, 2020, through Government Decree 5-2020, the president decreed a "State of Public Calamity" throughout the national territory, as a consequence of the pandemic caused by the COVID-19 virus, which concluded on October 1, 2020. In the context of the health emergency, a group of journalists publicly denounced that access to information had been restricted during the crisis and that virtual channels for directing questions about the response to COVID-19 had also been restricted.

769. In a letter published on April 12, 2020, more than 100 journalists and human rights organizations denounced the obstacles journalists have faced in carrying out their work since the COVID-19 pandemic began and the lack of complete, timely, adequate, and necessary information to learn about the management of the health crisis¹²³¹. Faced with the pandemic, the authorities would have created WhatsApp groups through which they communicated official information however, the administrators of these groups expelled several journalists who reportedly made them uncomfortable for their questions regarding the actions of the State on the crisis and the measures taken in that regard. For example, according to public information, the government would have censored a journalist from *Nómada* by removing her from the WhatsApp group of the Ministry of Health, where information about the coronavirus was shared, while the two WhatsApp groups of the Government, administered by the Secretary of Communication Social, would have been restricted so that the press could not ask questions or make comments. Journalists and social communicators have argued that they face a great opacity from the authorities to obtain information, that despite the change of head in the Secretariat of Social Communication of the Presidency, requests for information and interviews with cabinet

¹²²⁷ IACHR. November 23, 2020. [Press Release 281/20. IACHR Condemns Excessive Use of Force and Urges Investigation of All Forms of Violence During Social Protests in Guatemala](#); La Vanguardia. November 29, 2020. [Al menos cinco periodistas heridos durante las protestas en Guatemala](#); teleSUR. November 29, 2020. [Periodistas resultan heridos al cubrir protestas en Guatemala](#); Prensa Libre. November 24, 2020. [Las fotos que tomó el periodista Carlos Sebastián antes de ser agredido por la policía el #21N](#); Soy502. November 22, 2020. [#21N: Testimonio de Melissa Mencos, la documentalista detenida](#).

¹²²⁸ Soy 502. November 24, 2020. [Difunden nuevo video de la agresión de PNC contra un periodista](#); "Photographer Carlos Sebastián was doing his job and was attacked by an agent of the @PNCdeGuatemala, Carlos responded to the attack and was beaten by more agents. They smashed his head open with a baton". Twitter account of journalist Marvin del Cid @marvindelcid. [November 21, 2020-8:56 PM](#).

¹²²⁹ Diario Libre. November 25, 2020. [Periodistas y analistas de Guatemala exigen respeto a la libertad de prensa](#).

¹²³⁰ República. November 23, 2020. [MP investigará agresión contra periodistas durante disturbios](#); La Hora. November 23, 2020. [MP inicia investigación por agresiones a periodistas](#).

¹²³¹ Public denunciation by more than 100 journalists and human rights organizations against the Government. April 12, 2020. Available for consultation at: <https://media.sipiapa.org/adjuntos/185/documentos/001/832/0001832515.pdf>; APNews. April 13, 2020. [Guatemala: Periodistas denuncian acoso y censura de gobierno](#).

officials are not answered, and that the president has limited himself to offering messages on the national chain, most of them prerecorded and has given very little space to direct exchange with journalists.¹²³²

770. Likewise, civil society reported that “it is noteworthy the practice of Executive branch authorities of resorting only to the official media and the *de facto* monopoly of the González family for their social communication activities, since they reproduce their speeches without questioning them, actions that they are detrimental to the right to receive quality information”.¹²³³

771. In addition, according to information provided by civil society, during a virtual press conference in August, days after accusing the press of trying to generate divisions in society, within the framework of the measures adopted for the coronavirus¹²³⁴, the president would not have allowed the participation of certain reporters who wished to participate. Similarly, on July 17, the president met with indigenous authorities from Sololá, from Chichicastenango, Quiché, and from San Juan Comalapa, Chimaltenango. During the meeting, one of the authorities read a series of demands, some referring to the management of the health crisis in the area, which the president described as a “series of inconsistencies”, without allowing the indigenous leader to continue with the presentation¹²³⁵. Likewise, according to information provided by civil society, state authorities of different levels in various departments of Guatemala have limited the work of reporters by hiding data on infections, preventing access to public meetings or facilities, or refusing to provide statements.¹²³⁶

772. For its part, the State informed the Office of the Special Rapporteur that the president held daily press conferences and instructed the Secretariat of Social Communication to inform the population with graphics and including the languages of the Maya, Garífuna, and Xinka peoples. The State also reported that, although the state of public calamity was established and various regulations were adopted to face the health crisis, it established “exceptions in which all the media and broadcasting personnel are included, so that the media can carry out their work and can mobilize throughout the Guatemalan territory, even at times that are restricted for the rest of the Guatemalan population”¹²³⁷. Likewise, the Office of the Special Rapporteur considers as very positive that article 19 of Decree 12-2020, Emergency Law to protect Guatemalans from the effects caused by the COVID-19 coronavirus pandemic, indicates that the deadlines established in the access to public information law were exempted from the suspension of administrative terms according to the aforementioned rule. Given this, due to the concern expressed by some authorities about the practical impossibility of meeting the deadlines for providing the requested information due to the limitations imposed by the pandemic, the PDH asked the Government to comply with the obligation of active transparency and adopt the necessary measures so that within the framework of the pandemic, it is possible to continue receiving, processing, and providing public information, in accordance with the access to public information law.¹²³⁸

¹²³² Nómada. April 12, 2020. [Presidente Giammattei: la prensa no es su enemiga, deje de ocultar los datos del COVID-19](#); Asociación de Periodistas de Guatemala (APG). May 3, 2020. *Libertad de expresión en Guatemala. Primeros cuatro meses 2020*. Pp. 5 and ff. Available for consultation at: https://twitter.com/APG_1947/status/1256713949120208897; Reporters Without Borders (RSF). May 8, 2020. [Guatemala. Don't put the Guatemalan press in quarantine!](#); Information shared by Convergencia por los Derechos Humanos with the Office of the Special Rapporteur for Freedom of Expression in July 2020. Available for consultation at: Archive of the Office of the Special Rapporteur for Freedom of Expression.

¹²³³ Artículo 19. September 15, 2020. [Preocupación profunda por la situación de libertad de expresión en Guatemala](#).

¹²³⁴ LaHora. August 14, 2020. [Giammattei dice: “Yo jamás dije que la responsabilidad no era mía”](#); Asociación de Periodistas de Guatemala (APG). November 29, 2020. *Estudio de situación de la libertad de expresión en Guatemala 2020. Un año desolador para la prensa en Guatemala*. P. 16. Available for consultation at: https://twitter.com/APG_1947/status/1333050665573167104

¹²³⁵ Canal Antigua/YouTube. July 17, 2020. [Esta fue la reacción del Presidente Giammattei ante señalamientos de autoridades indígenas](#) *Asociación de Periodistas de Guatemala*; (APG). November 29, 2020. *Estudio de situación de la libertad de expresión en Guatemala 2020. Un año desolador para la prensa en Guatemala*. P. 16. Available for consultation at: https://twitter.com/APG_1947/status/1333050665573167104

¹²³⁶ Asociación de Periodistas de Guatemala (APG). November 29, 2020. *Estudio de situación de la libertad de expresión en Guatemala 2020. Un año desolador para la prensa en Guatemala*. Pp. 34 and ff. Available for consultation at: https://twitter.com/APG_1947/status/1333050665573167104

¹²³⁷ Estado de Guatemala. Observaciones de Guatemala al proyecto de comunicado “CIDH y su RELE expresan preocupación por las restricciones a la libertad de expresión y el acceso a la información en la respuesta de Estados a la pandemia del COVID-19”. Received on April 17, 2020.

¹²³⁸ República de Guatemala. Decreto No. 12-2020. Published on April 1, 2020 by Diario de Centro América. Available for consultation at: https://www.congreso.gob.gt/detalle_pdf/decretos/13517#gsc.tab=0 ; elPeriódico. April 10, 2020. [PDH solicita mantener plazos de acceso a información pública](#); Information shared by Convergencia por los Derechos Humanos with the Office of the Special Rapporteur

773. On the other hand, on March 14 the president declared that according to the Public Order Law “while any of the states of emergency [calamity, siege, prevention] lasts, the publicity organs are obligated to edit the publications that could cause confusion, panic, or aggravate the situation, as well as biased comments to the current circumstances; the director will be reprimanded by the respective authority and in the event of a repeat offense, censorship may be imposed on the body in question. We do not want to get there, I appeal to the media and citizens to hear what the government is saying”.¹²³⁹

774. In this regard, the Office of the Special Rapporteur is concerned about the validity of Article 35 of the Public Order Law of 1965, to which the president referred, and whose text served as the legal basis for the fifteenth provision of the presidential provisions in the event of public calamity of April 12, 2020. The Office of the Special Rapporteur considers that the text of said regulation is in conflict with the prohibition of prior censorship explicitly set forth in Article 13.2 of the American Convention, since the provision which intendeds to limit some areas of freedom of expression resorts to vague and ambiguous concepts and therefore comes into direct conflict with inter-American standards in this regard.

775. Finally, the Office of the Special Rapporteur became aware of bill 5792 that sought to modify the Law on Access to Public Information, Decree 57-2008. Although it had an initial favorable opinion from the Congressional Transparency Commission and on November 18 it was decided to give priority to the first debate, the opposition bench decided to withdraw two signatures from the opinion, in order for it to return to the worktable to be able to debate it in more depth and resolve the harsh criticism that the project has received¹²⁴⁰. As of the closing date of this report, the debate has not been resumed.

776. The bill in question sought, among other things, to create the National Office for Access to Public Information [*Oficina Nacional de Acceso a la Información Pública*] (ONAIP), a unit that would be in charge of ensuring compliance with the access to public information law, replacing the Secretariat for Access to Public Information (SECAI), an entity that operates under the supervision of the Human Rights Prosecutor’s Office (PDH). The ONAIP would be a dependency of Congress and its authorities would be elected by this institution. This proposal has been widely criticized internally for the potential loss of independence that it could cause and has been interpreted as an attempt to weaken the PDH. In addition, the bill would not meet the minimum requirements required by the Model Law of the Organization of American States, in particular those referring to the creation of an independent guarantor body to ensure the right of access to public information.

777. Finally, in relation to the creation of bodies that guarantee the right of access to public information, the Office of the Special Rapporteur has stated that the creation of these supervisory bodies must be accompanied by a series of measures to guarantee their autonomy and independence, as well as their specialized character. The foregoing, in order to avoid diminishing efforts in complying with the obligations of access to public information. Likewise, these bodies must have the power to promote the implementation of access laws and review the refusals of public institutions in order to adopt decisive decisions, without prejudice to judicial control regarding refusals in the provision of public information.

778. Likewise, in accordance with the Model Inter-American Law on Access to Information, there are a series of provisions such as the inability and incompatibility of certain persons to be elected as members of the supervisory body, regarding the duration of their selection, the possibility of re-election for a period, and immunities. These provisions are aimed at endowing the guarantor body with sufficient autonomy so that the members of said body can carry out their functions with total independence. The Office of the Rapporteur also recalls that technical, functional, and administrative independence, including the budgetary dimension, is important to guarantee to the best possible extent the autonomy and institutional independence of the supervisory body¹²⁴¹.

I. Subsequent liabilities

for Freedom of Expression in July 2020. Available for consultation at: Archive of the Office of the Special Rapporteur for Freedom of Expression

¹²³⁹ PublineWS. March 14, 2020. [Giammattei pide evitar publicaciones que provoquen pánico o confusión por coronavirus](#); APNews. April 13, 2020. [Guatemala: Periodistas denuncian acoso y censura de gobierno](#).

¹²⁴⁰ Prensa Libre. November 17, 2020. [Congreso prioriza iniciativa para cambiar la ley de acceso a la información pública](#); Prensa Libre. November 18, 2020. [Diputados dudan de apoyar iniciativa para cambiar la Ley de Acceso a la Información Pública](#).

¹²⁴¹ IACHR. Office of the Special Rapporteur for Freedom of Expression. [Specialized Supervisory Bodies for the Right to Access to Public Information](#). OEA/Ser.L/V/II. CIDH/RELE/INF. 14/16. 2016.

779. Quichelense journalist Marlon Chitop was sued for slander and defamation and summoned by a justice of the peace on September 22, after having refused to withdraw a substantiated publication from the media for which he works¹²⁴². Likewise, journalists from *Plaza Pública* were criminally sued for "threat, harassment, and extortion" by the relatives of the head of the Guatemalan Government Center after they tried to carry out a journalistic profile of this public official, according to a public statement by the own head of the Center of Government of Guatemala, Miguel Martínez¹²⁴³.

780. The Office of the Special Rapporteur for Freedom of Expression recalls that there are solid inter-American standards on subsequent responsibilities for the exercise of freedom of expression that are not compatible with the announcement by the Government that "it could charge people for incitement to sedition, if it considers that their expressions misinform or generate panic through social networks, in accordance [with] the provisions of the Public Order Law and the presidential provisions in the event of public calamity of April 12, 2020"¹²⁴⁴.

J. Internet and freedom of expression

781. The pandemic caused by the COVID-19 virus has highlighted, not only in Guatemala, but in the rest of the region, the serious impacts of the digital divide for the exercise of the right to freedom of expression, access to information, right to education, health, among many others, with a differentiated impact on the most vulnerable sectors of the population. According to the last National Population and Housing Census that was carried out in Guatemala, only 62% of the population over seven years old uses a mobile phone. Meanwhile, 21% of households have access to computers and 29% of households have Internet access. Internet access is higher in Guatemala City, compared to other areas of the country. For this reason, in many rural areas with low rates of Internet access, radio or television, it is unfeasible to adopt a distance education methodology through electronic devices, for example¹²⁴⁵.

K. Communications surveillance during the COVID-19 pandemic

782. On March 24, 2020, President Alejandro Giammattei announced that an application was available for mobile devices that would serve to provide the population with official information on actions related to COVID-19, emergencies, or natural disasters. This app was called "Alerta Guate" and was developed by the American company In-telligent LLC and financed by Tenlot Group. The app received several criticisms, in particular for certain permissions it requested from the user¹²⁴⁶, which could put their privacy at risk. Even, according to public information, it generated suspicions regarding the state surveillance that could be launched, based on the occurrence of this type of events in previous governments.¹²⁴⁷

783. While this app, according to the Government, was created with the intention of combating the health crisis and keeping the population informed, it generated certain alerts by some experts in mobile security and

¹²⁴² International Federation of Journalists (IFJ). September 18, 2020. [Guatemala: denuncian persecución e intimidaciones a periodistas](#); Centro Civitas. October 1, 2020. [Una pandemia para las y los comunicadores](#).

¹²⁴³ La Hora. September 9, 2020. [Titular de Centro de Gobierno denuncia a Plaza Pública](#); Nómada. September 10, 2020. [A Martínez, le incomoda la fiscalización y presenta denuncia penal contra Plaza Pública](#); Nómada. September 10, 2020. [Plaza Pública y APG reaccionan ante los ataques del director del Centro de Gobierno](#).

¹²⁴⁴ IACHR. Special Rapporteurship for Freedom of Expression. April 18, 2020. [Press release R78/20. IACHR and its SR FOE express concern about restrictions on freedom of expression and access to information in States' response to the COVID-19 pandemic](#)<http://www.oas.org/es/cidh/expresion/showarticle.asp?artID=1173&IID=2>; Canal Antigua/YouTube. April 2, 2020. [Entrevista al Presidente Alejandro Giammattei en Canal Antigua](#), starting at minute 33; Prensa Comunitaria. April 2, 2020. [Coronavirus y acusaciones de sedición, fueron las declaraciones de Giammattei en un programa de televisión](#).

¹²⁴⁵ Brecha Cero. March 9, 2020. [Los servicios móviles son la principal vía de acceso en Guatemala](#); Plaza Pública. April 1, 2020. [COVID19: La educación a distancia en un país con poco internet](#); Prensa Libre. April 20, 2020. [Coronavirus: Falta de acceso a internet amenaza sueños de niños en zonas rurales](#).

¹²⁴⁶ Such as email, geographic location, access to microphone, to device files, permission to make calls, to link with social media profiles, with which it could also access personal information from said source. República. March 24, 2020. [Alerta Guate es la App oficial para emergencias en Guatemala](#); PSCPTV. Noticias e información del Gobierno de Guatemala. March 2020. [Presidente anuncia creación de app "Alerta Guate"](#). Available for consultation at: <https://www.pscptv.com/GuatemalaGob/1ypKdOAlEYrGW?t=29m11s>

¹²⁴⁷ Asociación de Periodistas de Guatemala (APG). November 29, 2020. [Estudio de situación de la libertad de expresión en Guatemala 2020. Un año desolador para la prensa en Guatemala](#). P. 62 - 64. Available for consultation at: https://twitter.com/APG_1947/status/1333050665573167104; Global Witness. May 14, 2020. [Investigation reveals serious concerns over Guatemala COVID-19 app](#).

privacy and handling of personal data, as well as by civil society¹²⁴⁸. In a study carried out by one of these organizations it was highlighted that the application had some insecurity problems, it collected information about the geographical location, even when the app was closed, and that the developer's privacy policy allowed it to keep the data collected for up to ten years, that is, long after the duration of the pandemic. According to the aforementioned study, the company "In-telligent assured that it did not share the application data with the government or with Tenlot and that the information collected was the property of In-telligent and "was kept... strictly confidential", [...] [however] "the privacy policy of the developer also indicates that the data could [be] shared with third parties when the company reasonably believed [it] that it was necessary to protect the security of In-telligent, of [the] users, or other people".¹²⁴⁹

784. On the other hand, on November 11, the Attorney General's Office (MP) published two events in Guatecompras to acquire a cell phone geolocation software license and another for social network investigations, both for the use of the investigating entity. The "Acquisition of a Cellular Geolocation Software License for use by the Attorney General's Office" would allow "the geolocation of Guatemalan subscribers in Guatemalan territory by extracting remote locations of subscribers in 2G, 3G, 4G, and 5G technologies". Likewise, the "Acquisition of a Software License for Social Network Investigations for the use of the Attorney General's Office" would allow "early detections of criminal events that are generated on social networks or throughout the" global computer network to be able to monitor and analyze who they are the ones involved in such criminal acts".¹²⁵⁰

785. The bidding processes would have generated criticism due to the lack of information on the objectives of the purchases of these software and the use of personal data collected, as well as the consequences that their use could cause on people's privacy.¹²⁵¹ Given this, the Communication Department of the Attorney General's Office (MP), highlighted that both events are in the second phase of the bidding process stage and that "the only entity authorized by law to generate these actions is the Special Methods Unit of Investigation, which can be carried out solely and exclusively by prior authorization from a competent judge", when "the judge deems [that individuals] may be possibly involved in the commission of a criminal act".¹²⁵²

L. Community Broadcasting

786. At the time, the Office of the Special Rapporteur expressed its concern about the raid and unsuccessful attempt to confiscate the equipment, carried out at the Xyaab 'Tzuultaq'a community radio station in September 2019, without a court order, by the Attorney General's Office, the police, and the military of El Estor, Izabal, within the framework of a State of Siege. The authorities were unable to seize the radio equipment as the staff, fearing a raid by authorities, decided to remove the equipment from the premises as a security measure.¹²⁵³

787. The raid was against a radio that broadcasts in the Q'eqchi language, in modulated frequency and through an Internet page, with a significant presence in the indigenous community of the areas and surrounding areas, which was also used by the authorities themselves to inform the local population on various topics. Due to the raid, the station was not able to broadcast until January 2020, which had a negative impact on the communities, but also on the state entities that benefit from its operation. "For many residents, this community media is of special importance given the inaccessibility of the Internet or the telephone network, but also, unlike television media or corporate radios, this station broadcasts in their mother tongue and allows the transmission of oral culture". A few months after resuming broadcasts, a protest was held by

¹²⁴⁸ Medium.com. March 27, 2020. [Análisis de la APP Alerta Guate](#); Global Witness. May 14, 2020. [Investigation reveals serious concerns over Guatemala COVID-19 app](#).

¹²⁴⁹ Global Witness. May 14, 2020. [Investigation reveals serious concerns over Guatemala COVID-19 app](#).

¹²⁵⁰ La Hora. December 8, 2020. [MP busca adquirir softwares de geolocalización celular y para investigaciones de redes sociales](#); Noticias del Valle. December 11, 2020. [MP busca adquirir softwares de geolocalización celular y para investigaciones de redes sociales](#).

¹²⁵¹ La Hora. December 8, 2020. [MP busca adquirir softwares de geolocalización celular y para investigaciones de redes sociales](#); "This software is necessary for the Special Investigation Methods Unit of the Office of the Attorney General. The problem is that little or nothing is known about who will handle these software; they will be able to know where we live, work or study, who we meet with and more". Twitter account of journalist Javier Estrada Tovar @JavierEsTo. [December 7, 2020-11:56 AM](#).

¹²⁵² La Hora. December 8, 2020. [MP busca adquirir softwares de geolocalización celular y para investigaciones de redes sociales](#); Noticias del Valle. December 11, 2020. [MP busca adquirir softwares de geolocalización celular y para investigaciones de redes sociales](#).

¹²⁵³ El Periódico. September 30, 2019. [Relator de la CIDH condena allanamiento a radio comunitaria Izabal](#).

alleged employees of the nickel mining company affected by dismissals outside the radio station and the Ombudsman's Office, because they held them responsible for the dismissals that occurred in the company. The protesters insulted the staff of both entities and threatened to enter the property by force, and later, "community radio staff denounced that before and after the threats made by the alleged mining employees, defamatory campaigns, insults, and racist messages towards their staff, circulated on social networks", which categorized them as those responsible for spreading the coronavirus in the municipality, and as a "rebel radio", "guerrilla radio". Likewise, the radio had to suspend broadcasts again for a month, between the end of July and mid-August, due to the approval of a State of Prevention in the area.¹²⁵⁴

788. On the other hand, the Office of the Special Rapporteur notes that to date there has been no progress with respect to the law on community communication media, part of bill 4087, or with respect to any other initiative to legalize community radio stations, adopt positive measures in their favor and give them space in the radio spectrum. The foregoing, as well as the raids, confiscation of equipment, and the opening of criminal proceedings against community radio stations that operate without licenses, will be analyzed by the Inter-American Court in the case of Maya Kaqchikel of Sumpango Indigenous Peoples et al. V. Guatemala, following the merits report of the case submitted by the IACHR on April 3, 2020.

789. In this regard, since the year 2000, the IACHR and its Office of the Special Rapporteur have issued recommendations to the Guatemalan State in two particular aspects, that is, the need for a fairer and more inclusive legal framework for community broadcasting and the decriminalization of broadcasting without license in the country. It should also be noted that within the framework of the pandemic caused by the COVID-19 virus, community radio stations have acquired an even more transcendental role, due to the fact that "indigenous community radio stations are the main mean to inform, educate, motivate, and organize Indigenous communities in their own languages, with cultural relevance, and with their own knowledge to prevent and act in the face of the COVID-19 pandemic" and allow their participation and decision-making in the face of the pandemic.¹²⁵⁵

790. Based on the facts mentioned, this Office considers that the State should deem of special relevance that:

791. **The murder of journalists constitutes the most extreme form of censorship, and impunity contributes to the self-censorship of the press.** States have a positive obligation to identify and punish the perpetrators of these crimes. It is essential that the Guatemalan State fully, effectively, and impartially investigate the murders of journalists, clarify their motives, and judicially determine the relationship they may have to journalistic activity and freedom of expression. Authorities should not rule out the practice of journalism as a motive for the murder and/or assault before the investigation is completed. The omission of logical lines of investigation or the lack of diligence in the collection of evidence in this regard can have serious repercussions on the development of the processes in the stages of accusation or trial.¹²⁵⁶ Not having completely exhausted the logical lines of investigation entails, above all, that the intellectual authors cannot be identified.¹²⁵⁷ Likewise, the Office of the Special Rapporteur recalls that the States must ensure that crimes against freedom of expression are subject to independent, prompt, and effective investigations and judicial procedures. As it has been pointed out on other occasions, the lack of sanctions for those who are materially and intellectually responsible for homicides, assaults, threats, and attacks related to the exercise of journalistic activity encourages the occurrence of new crimes and generates a notorious self-censorship effect.

¹²⁵⁴ Asociación de Periodistas de Guatemala (APG). November 29, 2020. *Estudio de situación de la libertad de expresión en Guatemala 2020. Un año desolador para la prensa en Guatemala*. Pp. 62 - 64. Available for consultation at: https://twitter.com/APG_1947/status/1333050665573167104

¹²⁵⁵ For example, radio Naköj has broadcast in Mayan Kaqchikel the necessary security measures to avoid contagion in Santo Domingo de Xenacoj. See, Salud con Lupa. July 30, 2020. *Guatemala: una radio comunitaria traduce la pandemia a los mayas de Xenacoj*; Cultural Survival. May 27, 2020. *COVID-19 y las radios comunitarias indígenas*.

¹²⁵⁶ IACHR. Office of the Special Rapporteur for Freedom of Expression. *Special Study on the Status of Investigations into the Murders of Journalists during the 1995-2005 Period for Reasons that may be Related to their Work in Journalism*. OEA/Ser.L/V/II.131. Doc. 35, March 8, 2008, par. 116.

¹²⁵⁷ *Ibidem*, par. 125-126; IACHR. Office of the Special Rapporteur for Freedom of Expression. *Impunity, self-censorship and armed internal conflict: An analysis of the state of freedom of expression in Colombia*. OEA/Ser.L/V/II Doc.51. August 31, 2005, par. 65-66..

792. **Attacks and aggressions committed against journalists and against the press violate the right to freedom of expression both in its individual and collective dimensions and cannot be tolerated in a democratic society.** Principle 9 of the Declaration of Principles on Freedom of Expression of the IACHR states that “[t]he murder, kidnapping, intimidation of, and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of States to prevent and investigate such occurrences, to punish their perpetrators, and to ensure that victims receive due compensation.” Likewise, the Office of the Special Rapporteur reiterates to the State the importance of combating violence against journalists through a comprehensive policy of prevention, protection, and prosecution. This last obligation includes the duty to investigate, prosecute, and criminally convict all those responsible for these crimes and make comprehensive reparations to the victims. These obligations complement each other to guarantee the existence of a free, robust, and unrestricted democratic debate.¹²⁵⁸ In turn, with regard to violence against women journalists, the Office of the Special Rapporteur has highlighted that “women journalists disproportionately and routinely face gender-based violence in the workplace and on the field”¹²⁵⁹, and face differentiated forms of violence by state and non-state actors¹²⁶⁰, as well as lack of protection and obstacles in access to justice, also differentiated from their male counterparts. In this sense, the Office of the Special Rapporteur has highlighted the importance of integrating a gender perspective to guarantee that women journalists are adequately protected and can exercise their right to freedom of expression without undue restrictions.¹²⁶¹

793. **The adoption of adequate prevention mechanisms to avoid violence against communicators is crucial.** The Office of the Special Rapporteur has defined some of the requirements for the protection mechanisms to be effective. For example, to emphasize: 1) the importance of guaranteeing the necessary personnel and financial resources for the adequate implementation of the mechanism; 2) the need to ensure effective coordination among the entities responsible for the implementation of measures of prevention, protection, and prosecution; 3) the need to adequately define protective measures called for in the mechanism and the procedure for their adoption; 4) the need to guarantee the full participation of journalists, civil society, and beneficiaries in the implementation and operation of the mechanism; and 5) the benefits of seeking support from the international community for the mechanism’s operation.¹²⁶²

794. **Public authorities are called upon to maintain a speech favorable to public deliberation and freedom of expression.** While it is legitimate for politicians and public officials to make criticisms, corrections, or objections regarding specific reports in the media, when they do so, they should always take care to ensure that their comments are precise, avoid stigmatization and discrediting of the media, and not threaten journalists or undermine respect for the independence of the media.¹²⁶³

795. **Social protest, which includes the rights to peaceful assembly without arms, association, and freedom of expression, is a fundamental tool in the defense of democracy and human rights.** States have the obligation to respect, guarantee, and protect the right to freedom of expression and peaceful protests for all the people who live in the country, as well as to facilitate that these rights are exercised in accordance with the principles of a democratic society. Likewise, the State has the duty to guarantee that journalists and communicators who are carrying out their information work in the framework of a public

¹²⁵⁸ IACHR. [Annual Report 2013. Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter III (Violence Against Journalists and Media Workers). OEA/Ser.L/V/II.149. Doc. 50. December 31, 2013. Par. 31; IACHR. [Annual Report 2016. Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter IV. (Silenced zones: Highly dangerous areas for the exercise of freedom of expression). OEA/Ser.L/V/II.Doc. 22/17., March 15, 2017.

¹²⁵⁹ IACHR. [Women Journalists and Freedom of Expression](#). OEA/Ser. L/V/II. CIDH/RELE/INF.20/18. October 31, 2018. Par. 5. UN General Assembly. [Safety of Journalists and the Issue of Impunity. Report by the Secretary General](#). A/72/290. August 4, 2017. Par. 8.

¹²⁶⁰ IACHR. [Women Journalists and Freedom of Expression](#). OEA/Ser. L/V/II. CIDH/RELE/INF.20/18. October 31, 2018. Par. 3. IACHR. [Press Release 192/17. IACHR Calls on States to Recognize and Protect the Work of Women Human Rights Defenders](#). November 29, 2017. See also: IACHR. [Second Report on the Situation of Human Rights Defenders in the Americas](#). OEA/Ser.L/V/II. Doc. 66. December 31, 2011. Par. 283..

¹²⁶¹ IACHR. [Women Journalists and Freedom of Expression](#). OEA/Ser. L/V/II. CIDH/RELE/INF.20/18. October 31, 2018. Par. 76.

¹²⁶² IACHR. [Annual Report 2013. Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter III (Violence Against Journalists and Media Workers). OEA/Ser. L/V/II. 149. Doc. 50. December 31, 2013. Par. 81; IACHR. [Annual Report 2010. Office of the Special Rapporteur for Freedom of Expression](#). Chapter II (Evaluation of the State of Freedom of Expression in the Hemisphere. 2010 Special Report on Freedom of Expression in Mexico). OEA/Ser.L/V/II. Doc. 5. March 7, 2011. Par. 712.

¹²⁶³ Office of the Special Rapporteur for Freedom of Expression. May 2, 2018. [Joint Declaration on Media Independence and Diversity in the Digital Age](#).

demonstration, are not detained, threatened, attacked, or limited in any way in their rights because they are exercising their profession. Their material and work equipment must not be destroyed or confiscated by public authorities. The protection of the right to freedom of expression requires that authorities ensure the necessary conditions so that press professionals can cover events of notorious public interest, such as those related to social protests.¹²⁶⁴

796. **The inter-American human rights system explicitly prohibits prior censorship.** This arises from Article 13.2 of the American Convention on Human Rights, and Principle 5 of the Declaration of Principles on Freedom of Expression, which establishes that “[p]rior censorship, direct or indirect interference in, or pressure exerted upon any expression, opinion, or information transmitted through any means of oral, written, artistic, visual, or electronic communication must be prohibited by law. Restrictions to the free circulation of ideas and opinions, as well as the arbitrary imposition of information, and the imposition of obstacles to the free flow of information violate the right to freedom of expression.”

797. **Transparency and accountability of public powers strengthen democratic systems.** In this regard, the Office of the Special Rapporteur emphasizes that in the context of a pandemic “[i]t is essential that governments provide truthful information on the nature of the threat posed by the coronavirus. Governments around the world are obligated under human rights law to provide reliable information in formats accessible to all, paying particular attention to ensuring access to information by people with limited access to the Internet or to those people with disabilities to whom access is difficult”. Likewise, “the right of access to information means that governments must make exceptional efforts to protect the work of journalists. Journalism plays a crucial role in a time of public health emergency, particularly when it aims to inform the public of critical information and monitor government actions. We urge all governments to firmly enforce their access to information laws to ensure that all people, especially journalists, have access to it.” Likewise, the IACHR has established in its Resolution No. 1/20 on Pandemic and Human Rights in the Americas that “States should not include communicators in the restrictions of circulation and have the obligation to allow access to official press conferences to all media, without discrimination on account of editorial line, except for the necessary and proportional measures to protect health”.¹²⁶⁵

798. **The use of criminal mechanisms to punish speech on matters of public interest, especially related to public officials, is incompatible with inter-American standards.** Principle 11 of the Declaration of Principles on Freedom of Expression of the IACHR states that: “[p]ublic officials are subject to greater scrutiny by society. Laws that penalize offensive expressions directed at public officials [...] restrict freedom of expression and the right to information.” Likewise, both the IACHR and the Inter-American Court have repeatedly indicated that States have a more limited scope to impose restrictions on the right to freedom of expression “whenever they are expressions pertaining to the State, to matters of public interest, to public officials in the exercise of their functions or candidates for public office, or to individuals voluntarily involved in public affairs, as well as to political speech and debate”.¹²⁶⁶ They are subjected to a greater degree of scrutiny and criticism from the public, which is justified by the public interest nature of the activities they carry out, because they are voluntarily exposed to a more demanding scrutiny and because they have an enormous capacity to dispute the information through its power of public congregation”.¹²⁶⁷ Furthermore, the IACHR has repeatedly argued that the application of criminal law to punish expressions referring to public officials is disproportionate when it comes to protected speech, such as information or expression on matters of public interest, and violates the right to freedom expression.

¹²⁶⁴ United Nations (UN) Special Rapporteur on the Protection and Promotion of the Right to Freedom of Opinion and Expression and Special Rapporteur for Freedom of Expression of the OAS Inter-American Commission on Human Rights. September 13, 2013. [Joint declaration on violence against journalists and media workers in the context of protests.](#)

¹²⁶⁵ IACHR. Resolution No. 1/20. [Pandemic and Human Rights in the Americas.](#) April 10, 2020. Par. 29, 32; IACHR. Special Rapporteurship for Freedom of Expression. March 19, 2020. Press Release R58/20. [COVID-19: Governments must promote and protect access to and free flow of information during pandemic – International experts](#)

¹²⁶⁶ IACHR. [Annual Report 1994.](#) OEA/Ser. L/V/II.88. Doc. 9 rev. February 17, 1995; IACHR. Office of the Special Rapporteur for Freedom of Expression. [Annual Report 2009.](#) OEA/Ser.L/V/II. Doc. 51. December 30, 2009. Par. 100; I/A Court H. R., [Case Ivcher Bronstein v. Peru. Merits, Reparations and Costs.](#) Judgment of February 6, 2001. Serie C No. 74; I/A Court H. R. [Case of Herrera Ulloa v. Costa Rica.](#) Judgment of July 2, 2004. Serie C No. 107; I/A Court H. R. [Case of Ricardo Canese v. Paraguay.](#) Judgment of August 31, 2004. Serie C No. 111; I/A Court H. R. [Case of Palamara Iribarne v. Chile.](#) Judgment of November 22, 2005. Serie C No. 135; I/A Court H. R. [Case of Eduardo Kimel v. Argentina.](#) Judgment of May 2, 2008. Serie C No. 177.

¹²⁶⁷ IACHR. Office of the Special Rapporteur for Freedom of Expression. [Annual Report 2009.](#) OEA/Ser.L/V/II. Doc. 51. December 30, 2009. Par. 40.

799. **The creation of criminal offenses to punish the dissemination of misinformation or fake news could have a strong inhibitory effect on the dissemination of ideas, criticism, and information.** This, given that the introduction of criminal offenses could bring the region back to a logic of criminalizing expressions about officials or matters of public interest and establishing a tool with a strong inhibitory effect on the dissemination of ideas, criticism, and information. Resolution 1/20 adopted by the IACHR highlights that in the event that subsequent liability is established for the dissemination of information or opinions, based on the protection of public health interests, it must be established by law, in a manner proportional to the imperative interest that justifies it and must be closely tailored to the achievement of that legitimate objective.¹²⁶⁸

800. **Internet access is a *sine qua non* condition for the effective exercise of human rights.** The IACHR and its Office of the Special Rapporteur have highlighted that “in the current context of the health emergency generated by the COVID-19 pandemic, people’s access to a quality Internet acquires an unavoidable centrality. Based on the isolation and/or social distancing measures imposed by governments at a global level and its extension over time, internet connection appears as the tool *par excellence* to continue with daily tasks that previously required face-to-face contact, in addition of being crucial for the exercise of civil, political, economic, social, and cultural rights”.¹²⁶⁹ In this regard, the IACHR has emphasized that States must guarantee “the broadest and most immediate access to the Internet service to the entire population and develop positive measures to rapidly reduce the digital divide faced by vulnerable groups and those with lower income”.¹²⁷⁰

801. **States must protect the right to privacy and personal data of the population, especially during the pandemic.** “States, health providers, companies, and other economic actors involved in the efforts to contain and treat the pandemic, must obtain consent when collecting and sharing sensitive data from such persons and should only store the personal data collected during the emergency with the limited purpose of combating the pandemic, without sharing them for commercial or other purposes. Affected persons and patients will retain the right to cancel their sensitive data”. States must also “ensure that, when resorting to digital surveillance tools to determine, monitor, or contain the spread of the epidemic and the monitoring of affected people, these must be strictly limited, both in terms of purpose and time, and rigorously protect individual rights, the principle of non-discrimination, and fundamental freedoms. States must make transparent the surveillance tools they are using and their purpose, as well as set up independent monitoring mechanisms for the use of these surveillance technologies, and the secure channels and mechanisms for receiving complaints and claims”.¹²⁷¹ The Office of the Special Rapporteur has highlighted that “the use of any surveillance program or system in private communications must be clearly and precisely established in the law, be truly exceptional, and be limited according to what is strictly necessary for compliance with imperative purposes such as the investigation of serious crimes defined in the legislation, and having prior judicial control. The surveillance of communications and interference with privacy that exceed what is stipulated in the law, that are oriented to purposes other than those authorized by it, or those that are carried out clandestinely should be drastically sanctioned”.¹²⁷²

802. **Community journalism contributes to diversity and news pluralism.** Community broadcasters can play an extremely important role in offering public interest programming and complementing the content offered by commercial broadcasters. However, they face various obstacles, such as: the lack of specific legal recognition based on adequate criteria for this sector and the decision not to reserve sufficient frequencies

¹²⁶⁸ IACHR. Resolution No. 1/20. [Pandemic and Human Rights in the Americas](#). April 10, 2020. Par. 33 - 34; IACHR. Special Rapporteurship for Freedom of Expression. March 19, 2020. Press Release R58/20. [COVID-19: Governments must promote and protect access to and free flow of information during pandemic – International experts](#)

¹²⁶⁹ IACHR. Office of the Special Rapporteur for Freedom of Expression. August 31, 2020. [Press release R206/20. States of the Region must Accelerate Universal Internet Access Policies during the COVID-19 Pandemic and Adopt Differentiated Measures to Incorporate Groups in Vulnerable Situations](#).

¹²⁷⁰ IACHR. Resolution No. 1/20. [Pandemic and Human Rights in the Americas](#). April 10, 2020. Par. 31; IACHR. RIRCU Practical Guides to COVID-19 02. [How to ensure access to the Right to Education for Children and Adolescents during the COVID-19 Pandemic?](#)

¹²⁷¹ IACHR. Resolution No. 1/20. [Pandemic and Human Rights in the Americas](#). April 10, 2020. Par. 35 - 36; IACHR. Special Rapporteurship for Freedom of Expression. March 19, 2020. Press Release R58/20. [COVID-19: Governments must promote and protect access to and free flow of information during pandemic – International experts](#)

¹²⁷² IACHR. Office of the Special Rapporteur for Freedom of Expression. January 16, 2020. [Press release R10/20. IACHR and its Office of the Special Rapporteur express deep concern over complaints of espionage of journalists, human rights defenders, judges, and political leaders in Colombia](#).

for community radio stations nor to create adequate financing mechanisms.¹²⁷³ Community broadcasting must be expressly recognized in law as a differentiated form of communication media, it must benefit from fair and simple procedures for obtaining licenses, it must not have to comply with severe technological or other requirements for obtaining licenses, it must benefit from licensee fees, and it must have access to advertising.¹²⁷⁴

GUYANA

803. During 2020, the main challenges to freedom of expression were related to the lack of decisive results for the March 2 general and regional elections, which, along with the pandemic, posed difficulties for journalism work. A general animosity toward the media persists in Guyana, caused by its politicization. The Office of the Special Rapporteur observes that journalists continue to be the targets of attacks and threats from both the government and members of multiple political parties. Likewise, although Guyana's government reiterated its commitment to decriminalize defamation in its legal system, the laws remain on the books and are used frequently by public officials against journalists and opposition politicians.

A. Freedom of expression during elections

804. During 2020, the Office of the Special Rapporteur noted that journalists and media outlets in Guyana had particular difficulties covering the 2020 elections. Although the general and regional elections were held on March 2, a number of suspected irregularities in the tally forced a recount. In this context, it has been noted that the pandemic posed additional challenges to the media in Guyana in a context of social unrest.¹²⁷⁵

805. This Office was informed of a number of incidents of threats, aggression, and intimidation directed against media workers in the framework of post-electoral coverage, as well as during their coverage of the protests over the extended wait for results. Also, restrictions on and obstruction of their work was observed.¹²⁷⁶ For example, journalist Andre Hayne, editor of the *Stabroek News*, said public officials had taken advantage of understandable pandemic limitations to avoid accountability. He said that more control was being exercised over the questions allowed at press conferences, converting them into "a one-sided conversation where they are speaking to you as opposed to having that back and forth."¹²⁷⁷ In this regard, the Guyana Press Association called on leaders from all political parties and State authorities to openly

¹²⁷³ The United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples' Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information. February 2, 2010. [Tenth Anniversary Joint Declaration: Ten Key Challenges to Freedom of Expression in the Next Decade](#).

¹²⁷⁴ The UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media, the OAS Special Rapporteur on Freedom of Expression and the ACHPR (African Commission on Human and Peoples' Rights) Special Rapporteur on Freedom of Expression and Access to Information. December 12, 2007. [Joint Declaration on Diversity in Broadcasting](#)

¹²⁷⁵ Public Media Alliance. July 15, 2020. [Guyana: Covering an election during a pandemic](#); Guyana Times. May 3, 2020. [Prolonged electoral process, COVID-19 impacting media in Guyana](#).

¹²⁷⁶ Guyana Times. March 21, 2020. [High Court imposes restrictions on attorneys, media accessing hearing](#).

¹²⁷⁷ Public Media Alliance. July 15, 2020. [Guyana: Covering an election during a pandemic](#).

discourage actions that could undermine the work of journalists and media outlets and perpetuate violence.¹²⁷⁸

806. According to the information available, the Guyana Elections Commission (GECOM) limited journalists' access to information on the elections. According to the information provided by the Guyana Press Association, spokeswoman Yolanda Ward had not responded to key and critical questions, and both Chief Elections Officer Keith Lowenfield and Chairman Claudette Singh were almost entirely unavailable for questions. According to the Press Association, GECOM is "complicit" and "responsible for imbalanced coverage," especially in cases in which election commissioners, political parties, and other stakeholders filed serious accusations and claims.¹²⁷⁹

807. On March 13, 2020, supporters of political parties gathered outside the Secretariat of the GECOM, blocking media access and impeding their work even as police officers and political leaders looked on.¹²⁸⁰ According to accounts, the journalists were verbally harassed for the media outlet they represented and their ethnicities. The Guyana Press Association stated that from the start of the tally of the election results, GECOM and the Guyana Police ignored the journalists' security and rejected requests for a safe place for the media away from the vote counting center. The Office of the Special Rapporteur also received information on the lack of supplies and health protocols to prevent COVID-19 provided to the media during the postelection coverage.¹²⁸¹ Based on all this, the organization alleged that "The political leaders through speech and silence continue to bait and incite supporters to act against opposing groups and the media."¹²⁸²

808. In August, two journalists were threatened by Prince Holder, the president of the Partnership for National Unity/Alliance for Change (APNU/AFC) in Pomeroon-Supenaam (Region 2).¹²⁸³ According to the information available, journalist Romario Blair, with the *Kaieteur News*, and TV host Ravi Mohan were threatened on social media by the political leader after they published and disseminated a recording of former Regional Executive Officer (REO) Dennis Jaikarran threatening an employee. In the recording in question, he can be heard telling an employee that if he did not work with him, the only other option was to quit and commit suicide.

809. Additionally, in the framework of a highly politicized media environment, the Office of the Special Rapporteur noted warnings about the alleged improper use of State resources by the Department of Public Information (DPI), a government agency that was supposedly used to promote the campaign activities of the governing coalition.¹²⁸⁴

810. The Office of the Special Rapporteur monitored the protests and confrontations between ruling and opposition parties during the days following the March 2, 2020 elections. The tensions flared after the administration declared victory over the objections of the judges, international observers, and opposition, and prior to verification of the vote tally. On March 6, at multiple locations throughout the country, supporters of the People's Progressive Party/Civic took to the streets alleging electoral fraud and demanding verification of the Statements of Poll (SOPs) of Region 4, as well as a recount of the votes.¹²⁸⁵ Hundreds of people set up street barricades and blocked highways using agricultural machinery and tree branches, demanding the resignation of David Granger, the sitting president who was seeking reelection under the Partnership for National Unity/Alliance for Change. In this context, on March 6, police officers fired on and

¹²⁷⁸ Guyana Press Association / Facebook. [March 9, 2020](#); The Daily Observer. March 10, 2020. [Guyana Press Association alerts int'l to threats on journalists](#); Loop. March 10, 2020. [Journalists in Guyana threatened for post-election coverage](#).

¹²⁷⁹ News Room. February 26, 2020. [Press Association slams GECOM over lack of responses to key questions](#);

¹²⁸⁰ Guyana Press Association / Facebook. [March 14, 2020](#); Inews Guyana. March 14, 2020. [GPA condemns attacks against media workers](#); Big Smith News Watch. March 14, 2020. [Top Cop. GECOM. Parties allowed tense atmosphere for media workers: Press body dissatisfied](#); Stabroek News. March 15, 2020. [Press body condemns attacks on media workers](#); Guyana Chronicle. March 15, 2020. [GPA condemns attacks on media workers](#).

¹²⁸¹ Guyana Times. May 6, 2020. [NATIONAL RECOUNT: Media forced to work under tent without furniture, access to washroom](#).

¹²⁸² Guyana Press Association / Facebook. [March 14, 2020](#).

¹²⁸³ Guyana Times. August 17, 2020. [Region 2 Journalists threatened by APNU/AFC executive](#); Knight Center for Journalism in the Americas. August 17, 2020. [Two journalists from Guyana were allegedly threatened by a political party manager](#).

¹²⁸⁴ European Union Election Observation Mission. [Guyana 2020 General and Regional Elections. Final Report](#). P. 24; Public Media Alliance. July 15, 2020. [Guyana: Covering an election during a pandemic](#).

¹²⁸⁵ BBC. March 5, 2020. [Guyana election: Two main parties declare victory as tensions rise](#); Caribbean National Weekly. March 8, 2020. [Election Protests in Guyana Turn Deadly: Police Issues Warning](#).

killed an 18-year-old demonstrator in West Coast Berbice, who had allegedly attacked two police officers first with a bladed weapon.¹²⁸⁶

B. Subsequent liability

811. On August 18, Justice Priya Sewnarine-Beharry ordered the *Guyana Chronicle* and its former editor-in-chief, Nigel Williams, to pay damages of \$1.5 million to former deputy chief elections officer Vishnu Persaud in the framework of a defamation lawsuit.¹²⁸⁷ According to the information available, Vishnu Persaud had sued the newspaper over an article in which one of the sources (opposition-nominated elections commissioner Vincent Alexander) made certain statements about alleged irregularities in the framework of his performance on Guyana's Elections Commission. Upon weighing the evidence, the justice concluded that the *Guyana Chronicle*, its editor-in-chief Nigel Williams, and the source cited by the article in question had all committed defamation. The Justice found that "[t]he extent of the damage was compounded by the fact that the publications were made by [Alexander] who was a long standing GECOM Commissioner and a significant figure in civil society and who the average Guyanese would tend to trust and believe, more so because he was well placed to know the facts." In this regard, she concluded that the content of the news article had "tarnished [Persaud's] professional and personal reputation which he garnered over the years through educational pursuits and work experience at GECOM and would have affected his ability to secure future employment opportunities." The judgment said that "Rather than publish a retraction of the article and an apology, [Alexander] defended the statements as true in spite of plain evidence to the contrary."¹²⁸⁸

812. In view of these facts, the Office of the Special Rapporteur calls on the State of Guyana to take particular note of the following:

813. **Freedom of expression is linked directly to political rights and their exercise, with both kinds of rights reciprocally strengthening each other.** In order for citizens to be able to make decisions when casting votes, the greatest possible circulation of ideas, opinions, and information on the candidates, their parties, and their platforms is crucial.¹²⁸⁹ It is necessary for everyone to be able to question and investigate the abilities and suitability of the candidates, disputing and confronting their proposals, ideas and opinions so that the electorate can form an opinion on how to vote.¹²⁹⁰ As the IACHR has noted, free speech and political debate are essential for the consolidation of democracy in societies, which is why they are of compelling social interest.¹²⁹¹

814. **Government transparency and accountability strengthen democratic systems.** Principle 4 of the Declaration of Principles on Freedom of Expression of the IACHR establishes that, "Access to information held by the state is a fundamental right of every individual. States have the obligation to guarantee the full exercise of this right. This principle allows only exceptional limitations that must be previously established by law in case of a real and imminent danger that threatens national security in democratic societies." Likewise, in the framework of the pandemic, the IACHR and its Office of the Special Rapporteur have underscored that "governments must be making exceptional efforts to protect the work of journalists. Journalism serves a crucial function at a moment of public health emergency, particularly when it aims to inform the public of critical information and monitors government actions. We urge all governments to robustly implement their

¹²⁸⁶ Reuters. March 7, 2020. [Protester killed in Guyana as unrest spreads over vote fraud reports](#); Nodal. March 8, 2020. [Guyana | Murió manifestante en protesta por la falta de resultados en las elecciones: el oficialismo intenta legitimar el conteo mientras la oposición denuncia fraude](#).

¹²⁸⁷ Guyana Standard. August 19, 2020. [Former Deputy Chief Elections Officer wins defamation lawsuit against Guyana Chronicle, Vincent Alexander](#); INews Guyana. August 19, 2020. [Court awards \\$4.3M to former GECOM Deputy CEO on defamation case](#); Guyana Chronicle. August 21, 2020. [Vincent Alexander, others to fork out \\$4.3M](#).

¹²⁸⁸ Guyana Standard. August 19, 2020. [Former Deputy Chief Elections Officer wins defamation lawsuit against Guyana Chronicle, Vincent Alexander](#).

¹²⁸⁹ IACHR. [Annual Report 2005. Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter VI (Freedom of Expression and the Electoral Process: The Case of Opinion Polls and Exit Polls). OEA/Ser.L/V/II.124 Doc. 77. February 27, 2006. Par. 2

¹²⁹⁰ I/A Court H. R. [Case of Ricardo Canese v. Paraguay. Merits, Reparations and Costs](#). Judgment of August 31, 2004. Serie C No. 111. Par. 90.

¹²⁹¹ IACHR. Arguments before the Inter-American Court in the case Canese v. Paraguay. Transcribed at: [I/A Court H. R. Case of Ricardo Canese v. Paraguay](#).

freedom of information laws to ensure that all individuals, especially journalists, have access to information.”¹²⁹²

815. **The use of criminal mechanisms to punish speech on matters of public interest, especially speech related to public officials, is incompatible with inter-American standards.** The Office of the Special Rapporteur recalls that, as set forth in Principle 10 of the Declaration of Principles on Freedom of Expression, “The protection of a person’s reputation should only be guaranteed through civil sanctions in those cases in which the person offended is a public official, a public person or a private person who has voluntarily become involved in matters of public interest. In addition, in these cases, it must be proven that in disseminating the news, the social communicator had the specific intent to inflict harm, was fully aware that false news was disseminated, or acted with gross negligence in efforts to determine the truth or falsity of such news.” Likewise, as regards potential civil sanctions, the Inter-American Court has established that they must be strictly proportional such that they do not have a chilling effect on this freedom, given that “the fear of a civil penalty, (...) considering the claim for a very steep civil reparation, may be, in any case, equally or more intimidating and inhibiting for the exercise of freedom of expression than a criminal punishment, since it has the potential to attain the personal and family life of an individual who accuses a public official, with the evident and very negative result of self-censorship both in the affected party and in other potential critics of the actions taken by a public official.”¹²⁹³

HAITI

816. In 2020, the Office of the Special Rapporteur observed the continuation in the trend of attacks and threats directed against the media in Haiti, framed within a large-scale social and political crisis. This Office observes that, in general, independent journalism lacks sufficient resources and infrastructure for its full and free exercise, partly due to the natural disasters the country has suffered and that have inflicted enormous damage and increased poverty. Likewise, State support for journalism is weak, and accessing public information is extremely difficult. According to the organization Reporters without Borders (RSF), in 2020, Haiti experienced the greatest setback in freedom of the, dropping 21 places in the global index.

A. Administration of justice

817. According to what this Office was able to establish, in November 2020, Investigating Judge Samson Jean, who was looking into the October 2019 murder of *Radio Mèga* and *Radio Panic FM* journalist Néhémie Joseph, withdrew from the case for security reasons.¹²⁹⁴ The reporter was found shot to death in his private vehicle in the town of Mirebalais, northeast of Port-au-Prince and along the border with the Dominican Republic. In its 2019 report, the Office of the Special Rapporteur noted that one month prior to his murder, Néhémie Joseph had alleged through social media accounts that he was being threatened by politicians who accused him of inciting the protests. He had also told members of his family about the threats he had allegedly been receiving. In his work, he criticized the government and often reported on the mismanagement of the political crisis by local authorities.¹²⁹⁵

¹²⁹² IACHR. Resolution No. 1/20. [Pandemic and Human Rights in the Americas](#). April 10, 2020. Par. 29, 32; IACHR. Special Rapporteurship for Freedom of Expression. March 19, 2020. Press Release R58/20. [COVID-19: Governments must promote and protect access to and free flow of information during pandemic – International experts](#)

¹²⁹³ I/A Court H. R. [Case of Tristán Donoso v. Panama: Preliminary Objections, Merits, Reparations and Costs](#). Judgment of January 27, 2009. Serie C No. 193. Par. 129.

¹²⁹⁴ Trip Fourmi. November 24, 2020. [Le juge instructeur, Samson Jean s’est déporté du dossier de Néhémie Joseph](#); Zoom Haiti News. November 23, 2020. [Le juge d’instruction Samson Jean se déporte du dossier de l’assassinat du journaliste Néhémie Joseph](#); Le Nouvelliste. November 24, 2020. [Le juge Samson Jean s’est déporté du dossier de l’assassinat de Néhémie Joseph](#); Plaform News. November 25, 2020. [Le juge instructeur, Samson Jean s’est déporté du dossier de Néhémie Joseph](#).

¹²⁹⁵ IACHR. [Annual Report 2019. Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). OEA/Ser.L/V/II. Doc. 5. February 24, 2020. Par. 765.

818. According to the information available, only one person has been arrested for the murder of the *Radio Méga* correspondent. Clairjeune Juste Chandou was arrested on January 17 in the Dominican Republic and identified as one of the alleged murders. According to media reports, Chandou confessed to the police that he was the perpetrator of the murder and had received money from a senior political figure from Centre Department and been ordered to murder the reporter.¹²⁹⁶

819. A number of journalists have denounced the lack of progress made prosecuting attacks and murders perpetrated against journalists. They have said Haiti is no place for investigative journalism as long as "the judicial system remains weak and incapable of protecting journalists and witnesses."¹²⁹⁷ At the same time, media workers say they are working in an environment of fear and insecurity, surrounded by systematic problems and a lack of protection.¹²⁹⁸

B. Attacks, threats, and intimidation aimed at journalists and media

820. According to information received by the Office of the Special Rapporteur, in 2020, Haiti saw a number of attacks against journalists that came from inside the government and from armed groups.

821. Among other concerning incidents, on February 23, a group of masked individuals carrying firearms who said they were members of the National Police of Haiti attacked the offices of private broadcaster *Radio Télévision Caraïbes*, located in Port-au-Prince. The group set fire to several vehicles, fired shots at the building, and destroyed windows and broadcasting equipment. According to the information available, the attack took place amidst a demonstration held by the National Police of Haiti to demand better pay. The radio and TV broadcaster was covering the events live when the armed group broke into the offices and ordered them to shut down the drone they were using to film the protest. It was after journalists refused that the attack took place.¹²⁹⁹

822. The Association Nationale des Médias Haitiens and the Association des Médias Indépendants d'Haïti condemned the violent attack perpetrated against the media outlet's facilities and recalled that "all media must be able to do their job with total freedom, in accordance with their editorial stance and the rules of the profession." They also reiterated to the authorities that "it is your duty and responsibility to guarantee security and protection for journalists and media outlets." According to the information provided by the Committee to Protect Journalists, the director of the National Police, Normil Rameau, said an investigation would be conducted into the attack.¹³⁰⁰

823. Among other incidents of concern, on March 24, several unidentified men attacked a group of eight reporters at the Office National d'Identification—the governmental department responsible for managing citizen identification documents—as they were doing their job.¹³⁰¹ According to what this Office was able to establish, the journalists were investigating reports that the government entity was violating COVID-19 prevention guidelines by keeping citizens seeking ID cards crowded into small spaces. The attack started when the journalists began taking photographs of the crowds gathered at the public offices and was halted by an officer of the Police Nationale d'Haïti / Direction Départementale de l'Ouest (PNH / DDO), who escorted the reporters to the exit.

¹²⁹⁶ Haiti Tweets. January 17, 2020. [L'assassin présumé du journaliste Néhémie Joseph, arrêté](#); Gazette Haiti. January 17, 2020. [Arrestation du présumé assassin du journaliste Néhémie Joseph en République Dominicaine](#); Haiti Standard. January 17, 2020. [République dominicaine: le présumé assassin du journaliste Néhémie Joseph arrêté et remis aux autorités haïtiennes](#); RezoNodwes. January 18, 2020. [Haïti-RD : arrestation de 2 suspects dans l'assassinat du Journaliste Néhémie Joseph.](#)

¹²⁹⁷ AyiboPost. November 14, 2020. [Pourquoi le journalisme d'investigation est-il si rare en Haïti?](#)

¹²⁹⁸ Committee to Protect Journalists (CPJ). April 8, 2020. [Haitian journalist Robenson Sanon says covering COVID-19 feels like being 'soldiers in the battlefield'](#); Columbia Journalism Review. January 17, 2020. [In Haiti's uprising, journalists are caught in the middle.](#)

¹²⁹⁹ Haiti Standard. February 23, 2020. [Les locaux de la Radio télévision Caraïbes attaqués](#); Haiti 24. February 23, 2020. [Sos Attaque contre Radio Television Caraïbes](#); Vant Bèf Info. February 23, 2020. [Haïti/Attaque: Menace d'incendie contre la Radio/ Télévision Caraïbes](#); Committee to Protect Journalists (CPJ). February 26, 2020. [Haitian outlet Radio Télévision Caraïbes targeted with arson attack during police protest.](#)

Telesur. February 24, 2020. [Asociación de prensa haitiana rechaza agresión contra emisora](#); Le Louverture. February 24, 2020. [L'association des medias haitiens \(ANMH\), l'AMIH et L'AIH condamnent sans réserve l'attaque contre la Radio Television Caraïbe](#); Le Nouvelliste. February 27, 2020. [Protestations unanimes après l'attaque contre la Radio Télévision Caraïbes.](#)

¹³⁰¹ Vant Bèf Info. April 3, 2020. [Haïti/Presse: Un journaliste battu par des agents de l'Office National d'Identification](#); Committee to Protect Journalists (CPJ). April 9, 2020. [Journalists assaulted while covering COVID-19 measures in Haiti.](#)

824. According to the information that the journalists presented to the Office of the Public Prosecutor and that was released to the public, some of the attackers wore shirts identifying them as staff members of the National Identification Office, while others wore shirts identifying them as employees of the Ministry of the Interior and Public Security [*Ministère de l'Intérieur et de la Sécurité Publique*]. Radio Télé Zénith (RTZ) journalist Robest Dimanche said the attackers had struck him in the head and the face, seriously injuring his mouth and eyes, for which reason the attending physician told him to take time off to recover. Robest Dimanche also said that afterwards, he went to the Port-au-Prince public prosecutor to file a criminal complaint against the attackers.¹³⁰²

825. The Office of the Special Rapporteur received information also indicating that, similarly, a reporter for digital newspaper *La Brève* was verbally assaulted by National Identification Office officials while doing her work at the Lycée National de Carrefour-Feuilles, when they pressured her to leave. Jessica Jourdain was investigating containment measures adopted by the authorities to prevent COVID-19.¹³⁰³

826. On April 28, journalist Georges Emmanuel Allen, with *Haiti 24* and *Radio Televisión del Caribe* (RTVC), was physically attacked by officers of the National Police of Haiti after an altercation outside the Hôpital Universitaire de la Paix while a curfew was in effect. Although the journalist showed his press credential and his circulation permit issued by the Ministry of Communication, the police intercepted him when he returned home for the night, fining him for violating the curfew, leading to a violent altercation.¹³⁰⁴ The Association of Independent Media of Haiti and the National Association of Haitian Media condemned the incidents and demanded that the government and the Inspector General of the National Police open an investigation into what happened to identify and punish the officers responsible.¹³⁰⁵

827. Likewise, according to the Association of Haitian Journalists, Cenès Joseph, a journalist with *Radio Phénix Inter* and correspondent for *Radio sans fin (RSF)* in Maïssade, Cenès Joseph, reported receiving threats from a militant group that claims to be close to the Tet Kale Party of Haiti [*Parti haïtien Tèt kale (PHTK)*].¹³⁰⁶

828. Additionally, on July 28, at around 8:45 p.m. in the neighborhood of Drouillard, Cité-Soleil, Port-au-Prince, *Radio Télé MegaStar* journalist and photographer Setoute Yvens was returning home on a motorcycle after work when two armed men intercepted him and forced him to stop. They aggressively accused him of having published information on them in his reports on criminal activity in the area. The journalist was able to escape thanks to a vehicle that was passing by. Upon leaving, Yvens heard gunshots nearby, and as a local justice of the peace was able to verify, the bullets struck the motorcycle. The journalist said he plans to file a criminal complaint over the incident, which he called an "attempted murder."¹³⁰⁷

829. Likewise, that same day, during a program on *Radio Delta Stéréo*, the alleged head of a criminal gang operating in the neighborhood of Savien, Petite Rivière, Artibonite department, threatened to kill journalist Pradel Alexandre, a *Radio Nationale d'Haiti* correspondent in Saint-Marc and the general coordinator of the Artibonite Journalists Federation.¹³⁰⁸ He said he was tired of Alexandre's reports connecting him to kidnappings in the region. The Bajo Artibonite Journalists Union condemned these threats, saying they

¹³⁰² Vant Bèt Info. April 3, 2020. [Haïti/Presse: Un journaliste battu par des agents de l'Office National d'Identification](#); Committee to Protect Journalists (CPJ). April 9, 2020. [Journalists assaulted while covering COVID-19 measures in Haiti](#).

¹³⁰³ Kapzy News. March 23, 2020. [Haïti: Jessica Jourdain, journaliste à La Brève Info, agressée dans l'exercice de ses fonctions](#); Trip Foumi. March 24, 2020. [La journaliste Jessica JOURDAIN agressée par des agents de l'ONI](#); Le Petit Journal Haiti. March 31, 2020. [Jessica JOURDAIN, une journaliste reporter victime d'agression verbale](#).

¹³⁰⁴ Haiti 24. April 29, 2020. [Le journaliste Georges Allen tabassé par la Police, des journalistes condamnent](#); Haiti Standard. April 29, 2020. [Couvre-feu: le journaliste Georges Emmanuel Allen agressé par des policiers à Delmas 33](#).

¹³⁰⁵ Van Bèt Info. April 30, 2020. [Haïti / Affaire Georges Allen : Des Associations de médias exigent des sanctions contre les policiers fautifs](#)

¹³⁰⁶ Gazette Haiti. July 31, 2020. [Menace contre des travailleurs de la presse : l'AJH proteste et réclame des sanctions contre les auteurs de ces actes](#); Haiti Press Network. July 31, 2020. [Haïti-Press : Menaces de mort à l'encontre de nombreux journalistes, l'AJH tire la sonnette d'alarme](#); Le Nouvelliste. August 3, 2020. [L'AJH condamne des attaques et menaces contre des journalistes](#); CPAM 1410. (n.d.) [L'AJH condamne des attaques et menaces contre des journalistes](#).

¹³⁰⁷ Goals 9. July 29, 2020. [Sport-insécurité : Attaque armée contre Yvens Setoute, journaliste de la Radio Télé Mega Star, à Cité Soleil](#); Vant Bèt Info. July 30, 2020. [Haïti-Insécurité: Setoute Yvens, journaliste de la Radio Télé Mégastar, a frôlé la mort](#); Committee to Protect Journalists (CPJ). August 4, 2020. [Journalist Setoute Yvens survives shooting attempt, another reporter receives death threats in Haiti](#).

¹³⁰⁸ Haiti Standard. July 28, 2020. [Artibonite : le journaliste Pradel Alexandre menacé de mort par le chef de gang de "Savien"](#); InfoPro News. July 29, 2020. [Odma Louissaint promet la mort à Pradel Alexandre, l'UJBA réagit](#); Committee to Protect Journalists (CPJ). August 4, 2020. [Journalist Setoute Yvens survives shooting attempt, another reporter receives death threats in Haiti](#).

"obstructed freedom of expression." It also recalled that freedom of expression was one of the fundamental rights, as without it, the public's opinion could not be properly informed.¹³⁰⁹

830. In a public statement issued on July 30, the Office of the Secretary of State for Communication [*Bureau du Secrétaire d'État à la Communication*] condemned the attack on Setoute Yvens and the death threat against Pradel Alexander, adding that "the government will do everything it can to fight insecurity." He also urged the journalists to file the pertinent criminal complaints with the courts "so the perpetrators can be identified and punish."¹³¹⁰

831. On September 13, Patrick Moussignac, the president and general director of Radio Télévision Caraïbes (RTVC), denounced the threats of all kind to which his station had been subjected. He also highlighted alleged threats that it had received over social media, warning of supposedly "imminent attacks" against the television broadcaster's building.¹³¹¹

832. On December 28, in the metropolitan region of Port-au-Prince, *Groupe Média Alternatif* journalist Vario Sérant was attacked by unidentified armed men as he traveled by car with another person. According to publicly-available information, the journalist was shot and had to be taken urgently to the hospital. His companion died at the scene after being hit several times. Several days after the attack, Vario Sérant was transported to Costa Rica to receive the necessary treatment. The director of *Groupe Média Alternatif* said the attack on their partner and cofounder had had a significant impact on the institution.¹³¹²

C. Access to public information

833. Human rights organizations and journalism organizations have noted the opacity of government institutions and officials, the difficulties they face when trying to access information on COVID-19, and the difficulty in securing other information in the public interest.¹³¹³ In a context in which the information is almost completely in the hands of the government, journalists say they depend entirely on press conferences to obtain trustworthy information. Communicator Robenson Sanon, who often covers natural disasters, social disturbances, murders, and other matters says that in Haiti, information is not guaranteed. Instead, "you have to fight to get it" and it is "really difficult to obtain information from the government."¹³¹⁴ The journalist told the Committee to Protect Journalists that government institutions often tell journalists to get an appointment every time they ask for information.

834. That said, the Office of the Special Rapporteur welcomes the creation of the Center for Current Information on Government Affairs [*Centre d'Informations Permanentes sur l'Action Gouvernementale (CIPAG)*] which, in coordination with the Ministry of Culture and Communication, aims to provide more transparency and hold public authorities accountable. On June 10, in the framework of the introduction of the CIPAG, Minister of Communication Pradel Henriques said the transparency "helps strengthen the public's trust in the State and its institutions, improve government efficiency, facilitate information management, and promote citizen participation," which he called central pillars to any government action. The minister also noted that in the context of an unprecedented health emergency, health crisis management requires effective

¹³⁰⁹ Haiti Standard. July 29, 2020. [Menaces de mort proférées contre le journaliste Pradel Alexandre, l'Union des journalistes du bas-artibonite dénonce et condamne.](#)

¹³¹⁰ République D'Haiti, Ministère de la Communication. July 30, 2020. [Le Bureau du Secrétaire d'Etat à la Communication condamne avec véhémence l'attaque dont a été victime le journaliste Setoute Yvens et les menaces à l'encontre du journaliste Pradel Alexandre.](#)

¹³¹¹ Radio Télévision Caraïbes / Facebook. [September 13, 2020.](#) Trip Fourmi. September 13, 2020. [Patrick Moussignac dénonce les agressions physiques et verbales faites à l'encontre de la RTVC;](#) Journal La Diaspora. September 14, 2020. [Liberté de la presse: la Radio Télévision Caraïbe \(RTVC\) menacée et visée par une «attaque imminente».](#)

¹³¹² Le Nouvelliste. December 29, 2020. [Le journaliste Vario Sérant blessé par balle lors d'une attaque à Port-au-Prince;](#) Alter Presse. December 29, 2020. [Haïti-Insécurité : Le journaliste Vario Sérant, victime d'une attaque armée, le 28 décembre 2020, à Port-au-Prince;](#) Haiti News. December 29, 2020. [Des bandits armés ont attaqué le journaliste Vario Sérant;](#) Platform News. December 30, 2020. [Le journaliste Vario Sérant attaqué par des bandits armés;](#) Haiti Press Network. January 4, 2021. [Haïti-Sécurité : le journaliste Vario Sérant victime d'une attaque armée, opéré avec succès au Costa Rica.](#)

¹³¹³ Committee to Protect Journalists (CPJ). April 8, 2020. [Haitian journalist Robenson Sanon says covering COVID-19 feels like being 'soldiers in the battlefield';](#) AyiboPost. November 14, 2020. [Pourquoi le journalisme d'investigation est-il si rare en Haïti?](#)

¹³¹⁴ Committee to Protect Journalists (CPJ). April 8, 2020. [Haitian journalist Robenson Sanon says covering COVID-19 feels like being 'soldiers in the battlefield'.](#)

communication with the public.¹³¹⁵ The new office would join the Center for Current Coronavirus Information [*Centre d'Information Permanente sur le Coronavirus (CIPC)*] launched in March 2020 by the Prime Minister of Haiti.¹³¹⁶

835. Based on the facts documented by the Office of the Special Rapporteur in Haiti during 2020, mainly regarding limits on access to public information in the framework of the coronavirus pandemic, attacks and aggression against journalists and media outlets, and persistent impunity for attacks on the press, this Office deems it important to recall that:

836. **The murder of journalists is the most extreme form of censorship, and impunity contributes to media self-censorship.** States have a positive obligation to identify and punish the perpetrators of such crimes. As the IACHR and its Office of the Special Rapporteur have indicated repeatedly, it is crucial for the State to investigate the murders of these journalists fully, effectively, and impartially to discover the motives and legally establish any connection there may be to journalism activity and freedom of expression. The authorities must not preclude the practice of journalism as a motive for the murder and/or attack before the investigation has concluded. The omission of logical lines of investigation or lack of diligence in collecting evidence along these lines may have serious repercussions during the charging or trial processes. In particular, a failure to fully pursue all logical lines of investigation would mean that the masterminds behind the crimes could not be identified.

837. **Attacks and aggression against journalists violate the right to freedom of expression in both its individual and collective dimension and cannot be tolerated in a democratic society.** The Office of the Special Rapporteur recalls that Principle 9 of the IACHR's Declaration of Principles on Freedom of Expression states: "[t]he murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the state to prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive due compensation."

838. **Government transparency and accountability strengthen democratic systems.** In this regard, Principle 4 of the Declaration of Principles on Freedom of Expression of the IACHR establishes that, "Access to information held by the state is a fundamental right of every individual. States have the obligation to guarantee the full exercise of this right. This principle allows only exceptional limitations that must be previously established by law in case of a real and imminent danger that threatens national security in democratic societies." Likewise, the Office of the Special Rapporteur recalls that the IACHR Resolution on Pandemic and Human Rights underscores the importance of access to information in the current context caused by COVID-19 and the crucial role that journalists play by reporting on critical issues and monitoring the government's actions. States have an obligation to permit all media outlets access to official press conferences, without discrimination based on editorial stance, with the exception of necessary and proportionate measures to protect health.¹³¹⁷

¹³¹⁵ Ministère de la Culture et de la Communication Haïti / Facebook. [June 10, 2020](#); Haiti Press Network. June 10, 2020. [Haïti-Politique: De CIPC à CIPAG, le Gouvernement cherche la bonne voie pour une communication plus efficace](#); Le Nouvelliste. June 12, 2020. [Lancement du Centre d'informations permanentes de l'action gouvernementale : discours du ministre Pradel Henriquez](#).

¹³¹⁶ Gazette Haiti. March 15, 2020. [Covid-19: le gouvernement met en place un centre d'information permanente](#); Le National. March 17, 2020. [Haïti: lancement officiel du Centre d'informations permanentes sur le Coronavirus \(CIPC\)](#).

¹³¹⁷ IACHR. Resolution No. 1/20. [Pandemic and Human Rights in the Americas](#). April 10, 2020.

HONDURAS

839. The Office of the Special Rapporteur noted with concern the persistence during 2020 of significant levels of violence against journalists and media workers, a situation that was aggravated during the COVID-19 pandemic because of the restrictions and obstacles imposed by the government and security forces on the free practice of journalism. The excessive use of force by state security forces in the repression of citizen protests also continued to be reported.

840. According to the information received, access to public information was limited during the COVID-19 crisis, with restrictions on journalists' access to events and information of public interest and a lack of transparency about government spending in handling the crisis, among other situations.

841. The entry into force of a new Criminal Code containing provisions that may infringe on the rights to freedom of expression and assembly, among others, was also of concern to the Office of the Special Rapporteur. In addition, the use of the criminal law to sue journalists for the dissemination of information or opinions of general interest was noted as a cause for concern.

842. The pandemic also affected the health and working conditions of media workers. The death of journalist David Ellner Romero after he contracted COVID-19 while serving a sentence for criminal defamation—despite being the beneficiary of precautionary protection measures from the IACHR—raised particular concern in the Office of the Special Rapporteur.

A. Murders

843. On July 1, journalist Germán Vallecillo and cameraman Jorge Posas of *Canal 45* in La Ceiba, Atlántida department, were murdered. According to available information, the journalists were intercepted by a vehicle and shot by unknown assailants. Both died immediately. Local media reported that Vallecillo was on his way to a family gathering because it was his birthday that day. The State reported that the Public Prosecutor's Office and the Police Investigations Bureau took several immediate actions. On July 4, the police arrested five people allegedly involved in the attack, including Ramón David Zelaya Hernández. The police subsequently

released the other detainees but kept Zelaya in custody and identified him as one of the main suspects. On July 7, police captured a second suspect in the crime, Edward David Zalavarría.¹³¹⁸

844. Human rights advocate Marvin Damián Castro Molina, a member of the Coordinating Committee of the Southern Social Environmental Movement for Life (MASSVIDA) and coordinator of the Pespirens Youth Network, was abducted from his home on July 12 and later found dead with signs of violence, according to information released by authorities. He had been the beneficiary of collective precautionary protection measures granted by the National Protection Mechanism since January 2019.¹³¹⁹

845. On September 28, journalist Luis Alonso Almendares, 35, was shooting a video on the streets of Comayagua while on his way to a food shop when he was intercepted by two individuals on a motorcycle who shot him repeatedly. The journalist was initially transported to the Santa Teresa Hospital in Comayagua, and then to the Hospital Escuela Universitario in Tegucigalpa, where he died hours later. Public information indicates that the journalist recorded and published a video on social media at the time of the attack, in which he can be heard asking for help from a group of people. Although he had received protection from the Protection Mechanism, the State reported that he withdrew from the protection on February 26, 2019. After working for local media and as a correspondent for radio stations nationwide, Almendares worked independently and used social media to report news from the city of Comayagua. Over 20,000 users followed his account. According to available information, the journalist had filed at least 10 complaints of death threats with the police and the government's mechanism for the protection of journalists. The State reported that the Office of the Prosecutor for Crimes against the Person [*Fiscalía de Delitos contra la Vida*] is in charge of the investigation and that several proceedings and searches have been carried out. The police also announced that they have begun efforts to determine the whereabouts of the two individuals who shot Almendares.¹³²⁰

846. The Honduran Journalists Association (CPH) withdrew from the Protection Mechanism for journalists and media workers in protest of the crime against Almendares. The association complained about the lack of guarantees offered by the mechanism. "We have been in a situation in recent years where we are defenseless against murder and this is the straw that broke the camel's back, we can no longer continue to watch how they are killing our people," said CPH president Dagoberto Rodriguez in a public statement. "Given the risks to which members of our profession are exposed, we have decided as a national board of directors to withdraw our representatives from the protection mechanism until there are guarantees to protect the lives of journalists, media workers, and human rights defenders," he stated. According to statistics from civil society, Almendares's death brings the total number of journalists killed since 2001 to 87.¹³²¹

B. Attacks, threats, and intimidation of journalists and the media

847. According to the Office of the Special Rapporteur's monitoring, journalists and media outlets faced various obstacles and attacks that hindered or prevented them from carrying out their news reporting work as a result of the COVID-19 pandemic and measures restricting the movement of citizens. The economic impact of the public health crisis also affected the operation of the media and the job stability of its workers.

¹³¹⁸ IACHR. Office of the Special Rapporteur for Freedom of Expression. [Comunicado de prensa R161/20. Relatoría Especial condena doble asesinato de comunicadores Germán Vallecillo y Jorge Posas en Honduras; urge continuar la investigación en línea con la actividad periodística](#), July 9, 2020; La Prensa. July 3, 2020. [Policía: Indagan móvil pasional en crimen de periodista Germán Vallecillo](#); C-Libre. July 1, 2020. [Asesinan a periodista y camarógrafo en La Ceiba](#); Committee to Protect Journalists (CPJ). July 8, 2020. [Unidentified attackers shoot and kill 2 journalists in Honduras](#)<https://cpj.org/es/2020/07/sujetos-no-identificados-asesinan-a-balazos-a-dos-periodistas-en-honduras/>; La Prensa. July 12, 2020. [A prisión segundo implicado en el crimen de periodista ceibeño](#).

¹³¹⁹ OHCHR Honduras. July 14, 2020. [OACNUDH condena el asesinato de Marvin Damián Castro Molina, miembro de la Coordinación del Movimiento Ambientalista Social del Sur por la Vida \(MASSVIDA\)](#); C-Libre. July 14, 2020. [Asesinado líder juvenil y defensor ambientalista](#).

¹³²⁰ IACHR. Office of the Special Rapporteur for Freedom of Expression. October 2, 2020. [Press release R242/20. Office of the Special Rapporteur condemns the murder of journalist Luis Alonso Almendares in Honduras and urges to investigate the relation to his journalistic work](#)<https://www.oas.org/es/cidh/expresion/showarticle.asp?artID=1186&IID=2>; El Heraldo. September 28, 2020. [Repudio y consternación por el crimen del periodista Luis Almendares](#); C-Libre. September 28, 2020. [Muere periodista tras ser atacado a tiros en Comayagua](#).

¹³²¹ La Tribuna. September 28, 2020. [CPH se retira del mecanismo de protección a periodistas y comunicadores sociales](#).

848. On April 17, for example, journalists Olman Uclés and Francisco Zúniga, of *Noticiero Hoy Mismo*, were attacked by members of the National Police while reporting on the crowded conditions—contrary to measures to prevent the spread of the virus—in two markets in Comayagüela.¹³²²

849. The director of the digital portal *Criterio*, Emy Padilla, reported that during the state of emergency ordered by the government, the outlet was the target of several smear campaigns because of its news coverage.¹³²³ The television channel *UNE TV* also complained, in a statement released on May 4, of a smear campaign against it on Facebook, with posts that falsely reported the non-payment of wages and announcements of layoffs.¹³²⁴

850. Journalists in the department of Santa Bárbara announced a “precarious” situation after the suspension of advertising contracts that left them without money to pay for reporting and personal living expenses.¹³²⁵ Similarly, the Santa Barbara Journalists Network reported constant restrictions on the practice of the profession by local police, who imposed requirements limiting their ability to move about freely.¹³²⁶

851. Journalist Dassaev Aguilar, a correspondent for *HISPAN TV*, endured a string of attacks and was detained for several hours by police officers on May 18 in Tegucigalpa while on his way to cover the news, even though he had a press pass entitling him to travel.¹³²⁷ Journalist Óscar Morán Méndez of *Radio Cadena Voces* (RCV) in Tegucigalpa reported that his work was hindered by an official from the Honduran Bank for Production and Housing, who ignored his questions at a May 13 press conference during which she announced actions to be taken in response to the public health emergency. The journalist, who allegedly made the official uncomfortable by asking her about the bank president’s salary, was removed from the premises by a security guard.¹³²⁸ On the same day, Santiago López, a journalist with the local television station *Canal 49 Telecaes* and correspondent for *HCH Televisión Digital*, reported that the regional authorities of the National Risk Management System (SINAGER) in the municipality of Santa Rosa de Copán had refused to give him interviews or provide him with information on the management of the COVID-19 pandemic, in alleged retaliation for his reports on the crisis that were not to the agency’s liking.¹³²⁹

852. Media outlets *Radio Globo* and *Confidencial HN* complained that their reporting was being obstructed by government officials, as the Ministries of Economic Development and Labor and Social Security did not respond to several requests for safe conduct passes for their journalists to travel during the quarantine. Security forces have detained journalists from the newspaper and the radio station for not having passes, which were granted to other press workers.¹³³⁰

853. Several journalists have been threatened, attacked or prevented from doing their work by public servants, members of the security forces, or private citizens, in various news reporting contexts. For instance, on January 12, Elder Cortés, the director of *Canal Copaneco TV* in Santa Rosa de Copán, had his vehicle set on fire.¹³³¹ A member of the National Police reportedly physically assaulted journalist Mauricio Ortega on February 1 when he went to file a complaint at police headquarters in the municipality of Omoa, Cortés.¹³³² After the digital audiovisual media outlet *El Perro Amarillo* published leaked recordings on February 19 that allegedly showed officials from the Office of the Prosecutor General concealing evidence in organized crime cases and collaborating with criminal groups, social media users have repeatedly threatened the outlet’s

¹³²² C-Libre. April 20, 2020. [Policía Nacional agrede a periodistas de televisión en Tegucigalpa.](#)

¹³²³ C-Libre. April 20, 2020. [Continúan los discursos de desprestigios contra medios de comunicación.](#)

¹³²⁴ C-Libre. May 8, 2020. [UNE TV denuncia campaña de desprestigio.](#)

¹³²⁵ C-Libre. April 27, 2020. [Periodistas alertan sobre “precaria situación” en Santa Bárbara.](#)

¹³²⁶ Information supplied to the IACHR by Asociación por la Democracia y los Derechos Humanos (ASOPODEHU) of Honduras. *Decretos de excepción y restricciones contra la libertad de expresión, derecho a la protesta y otros derechos humanos.* July 16, 2020

¹³²⁷ Pasos de Animal Grande. May 19, 2020. [Policías detienen, amenazan con arma de fuego y tratan de quitarle la cámara al periodista Dassaev Aguilar de HispanTV;](#) C-Libre. May 19, 2020. [Policía Nacional amenaza, estigmatiza y detiene ilegalmente a corresponsal internacional.](#)

¹³²⁸ C-Libre. May 14, 2020. [Funcionaria de BANHPROVI coarta a periodista derecho a informar;](#) Pasos de Animal Grande. May 16, 2020. [También por preguntas incómodas: Funcionaria de BANHPROVI ordena expulsión de dos periodistas y después se disculpa.](#)

¹³²⁹ C-Libre. May 14, 2020. [Periodista denuncia censura de SINAGER en Copán.](#)

¹³³⁰ C-Libre. April 1, 2020. [Medios de comunicación denuncian obstáculos para dar cobertura en crisis por COVID-19;](#) ConfidencialHN. March 31, 2020. [Ejecutivo pone en peligro integridad de periodistas de Radio Globo y ConfidencialHN al negarles salvoconductos.](#)

¹³³¹ C-Libre. January 15, 2020. [Incendian vehículo a dueño de canal en occidente del país.](#)

¹³³² C-Libre. February 4, 2020. [Policía agrede a periodista e impide que interponga denuncia.](#)

director, Milton Benítez, and other journalists on the team.¹³³³ On July 4, the outlet reported that its offices had been attacked by unknown persons, who also stole documents and technical equipment.¹³³⁴ Photojournalist Alex Fernando Destephen Soto, of the digital newspaper *Criterio*, was assaulted and prevented from taking photographs by an individual who also damaged his camera while covering a March 8 International Women’s Day event in Tegucigalpa.¹³³⁵ On April 24, the same photographer was detained for several minutes by two Preventive Police officers after he took photographs of a fire in the Comayagüela markets in Tegucigalpa, allegedly because they mistook him for an intelligence agent.¹³³⁶ Journalist Carlos Lara was the victim of a gunshot attack on March 12 near his residence in the municipality of Tocoa, department of Colón.¹³³⁷ Journalist Paola Cobos was assaulted by members of the National Police on March 23 while reporting on the arrest of a couple in downtown Tegucigalpa. On April 7, journalist Selvin Euceda reported having received a death threat on his cell phone after exposing the actions of the chairman of the Water Board and the councilwoman of the Marcovia municipal corporation.¹³³⁸ Journalist Danilo Osmaro Castellanos, director of the news program *ATN Noticias* on *Canal 32 Multivisión*, was verbally assaulted by the mayor of Corquín, in the department of Copán.¹³³⁹ On April 13, *Canal 6* cameraman Javier López was verbally assaulted by members of the Public Order Management and Municipal Police of the Central District, while reporting on attacks against citizens.¹³⁴⁰ On April 29, members of the Public Order Military Police obstructed the work of journalists in Colonia La Esperanza, Tegucigalpa, who were covering the murder of three people inside a house.¹³⁴¹ On April 30, a member of the National Police impeded the work of *Canal 36* correspondent Ely Vallejo, who was covering a traffic checkpoint in San Pedro Sula. The reporter was photographed and filmed by the police officer, who refused to answer his questions.¹³⁴² On June 15, journalist Isaac Calix, a correspondent for the *Hoy Mismo* news program, said that authorities from the Property Institute in Roatán, in the department of Islas de la Bahía, obstructed his reporting by denying him access to the institution. He also reported that he was subjected to physical and verbal abuse.¹³⁴³

854. On June 2 the newspaper *El Libertador* reported on an alleged plan to assassinate its editor, journalist Jhonny José Lagos Henríquez. According to the newspaper, the order came from the executive branch. A source linked to the Honduran police and military high command warned the journalist to “take strict security measures” because he had been under surveillance for some time.¹³⁴⁴

855. Members of the National Police assaulted journalist Henry Fiallos and his cameraman, from *Corporación Televicentro*, to prevent them from covering an attempted prison break on July 28 at the La Esperanza penitentiary in the department of Intibucá.¹³⁴⁵

856. Journalist Rony Pineda stated on August 20 that he had to quit reporting in the department of Cortés due to multiple threats against his work, his life, and the lives of his family. He said he has been receiving these threats since 2017. The actions against him intensified on July 29, when he received death threats along

¹³³³ Committee to Protect Journalists (CPJ). February 26, 2020. [Journalists at Honduran outlet El Perro Amarillo receive death threats online.](#)

¹³³⁴ El perro amarillo. July 4, 2020. [Nuevamente atentan contra equipo de El Perro Amarillo.](#)

¹³³⁵ Criterio. March 26, 2020. [Durante cobertura informativa, desconocido daña cámara fotográfica de reportero de CRITERIO.HN;](#) C-Libre. March 26, 2020. [Desconocido agrede y daña equipo de trabajo de fotoperiodista durante cobertura noticiosa.](#)

¹³³⁶ C C-Libre. April 24, 2020. [Policías retienen a foto-reportero al “confundirlo” con un supuesto agente de inteligencia.](#)

¹³³⁷ Tiempo Digital. March 13, 2020. [Frustran atentado contra periodista y excandidato en Tocoa;](#) Proceso. March 12, 2020. [Atentan contra periodista en Tocoa, Colón;](#) C-Libre. March 14, 2020. [A balazos atentan contra periodista en Colón.](#)

¹³³⁸ C C-Libre. April 8, 2020. [Periodista es amenazado de muerte al sur del país.](#)

¹³³⁹ Canal Dieciséis. April 11, 2020. [Fuerte discusión entre Alcalde Amilcar Paz de Corquín Copán y el reconocido Periodista Danilo Osmaro Castellanos;](#) C-Libre. (n.d.) [Situación de la libertad de expresión y acceso a la información pública: Protestas por el hambre.](#)

¹³⁴⁰ C-Libre. April 14, 2020. [Empleados municipales agreden a camarógrafo de Canal 6.](#)

¹³⁴¹ C-Libre. May 3, 2020. [Policía Militar restringe cobertura de suceso en Tegucigalpa.](#)

¹³⁴² C-Libre. May 3, 2020. [Policía impide cobertura y perfila a periodista de zona norte.](#)

¹³⁴³ C-Libre. June 18, 2020. [Instituto de la Propiedad obstruye trabajo de periodista en Roatán.](#)

¹³⁴⁴ El Libertador. June 2, 2020. [Alerta/ Honduras: “Fuerzas oscuras” ordenan asesinar al director de El Libertador;](#) C-Libre. June 2, 2020. [Periódico “EL LIBERTADOR” alerta plan de asesinar a su director.](#)

¹³⁴⁵ C C-Libre. July 31, 2020. [Policías agreden a periodistas durante cobertura noticiosa de fuga de reos;](#) Tvcplay. July 29, 2020. [Tn5 Matuino miércoles 29 julio 2020.](#)

with photographs of himself, his wife, and the vehicle he drives, from a Facebook profile using the name “Armando Chirino.”¹³⁴⁶

857. On August 24, journalist Santiago López, *HCH* correspondent for the department of Copán, reported that a member of the National Police made hand gestures to him that alluded to gunshots. On *HCH* news, López claimed that the same police officer had previously threatened to “gas him” in mid-2019 if he continued “covering the teachers’ marches.” In connection with the COVID-19 pandemic, the journalist reported on members of the National Police infected with the virus, including the officer who threatened him. The journalist is a beneficiary of protection measures from the National Protection Mechanism, but, he said, his police liaison did not return his calls.¹³⁴⁷

858. Journalist Renata Espinal reported being a victim of cyber harassment after she published several posts on topics of personal interest in August.¹³⁴⁸ Journalist Thelma Mejía also received death threats through social media on September 27, after sending a Tweet with a message of solidarity to a colleague whose work was being criminalized in Guatemala.¹³⁴⁹

859. It was reported to this office that members of the National Police assaulted and obstructed the work of journalists Wilmer Montoya, of *Canal 6*, and Fernando Lanza, of *CHTV*, on September 27, when they were gathering information on a violent incident at the police station in the municipality of La Ceiba, department of Atlántida.¹³⁵⁰

860. Two journalists and human rights advocates, members of the Committee for Free Expression (C-Libre), were arbitrarily detained and assaulted by the National Police on November 2 in Tegucigalpa. Miriam Elvir was detained at a police checkpoint at the entrance to the La Esperanza neighborhood for allegedly disrespecting police officers, while journalist Cesario Padilla was arrested for recording his colleague’s arrest.¹³⁵¹

C. Arbitrary arrests

861. Journalist and human rights advocate Leonel George was detained for approximately one hour at the Police Investigations Bureau (DPI) in Tocoa, department of Colón, on January 27, after going to report a robbery at the headquarters of the Coordinating Committee of Popular Organizations of Aguán [*Coordinadora de Organizaciones Populares del Aguán*], an organization of which he is a board member. “They let me go, but they were very interested in detaining me and bringing me before the courts,” said George, who has been the target of criminal proceedings because of his activism. He is the beneficiary of precautionary measures granted by the Inter-American Commission on Human Rights (IACHR) due to the smear campaigns and criminalization he has been subjected to because of his work.¹³⁵² On July 25, the journalist reported that he was chased by a vehicle at night in the city of Nacaome, department of Valle. He blamed the mayor of the municipality, who he alleged was retaliating against him for reporting on and defending human rights.¹³⁵³

862. On March 17, police officers detained human rights defender Aleyda Huete at her home and took her to the offices of the Police Investigations Bureau in Choluteca. She was released on bail hours later on charges of “illegal possession of a homemade weapon” and “storage of explosive devices.” On March 31, Huete was

¹³⁴⁶ C-Libre. August 20, 2020. [Amenazas y agresiones generan autocensura en comunicador](#); Conexhion. (n.d.). [Comunicador de la zona norte de Honduras: “Tuve que callar para salvar mi vida”](#).

¹³⁴⁷ Pasos de Animal Grande. August 23, 2020. [Periodista Santiago López: Oficial Portillo me hizo señas con sus dedos que me iba a disparar](#); C:\Users\CIDH\Bec11\AppData\Local\Microsoft\Windows\NetCache\Content.Outlook\2SGC9RFA\Periodista Santiago López: Oficial Portillo me hizo señas con sus dedos que me iba a disparar; HCH. August 24, 2020. [Periodista de #HCH denuncia amenazas por parte de elemento policial](#); C-Libre. August 26, 2020. [Amenaza de muerte por miembro de la Policía denuncia periodista en Copán](#).

¹³⁴⁸ Televisión. August 25, 2020. [Renata Espinal rompe el silencio tras su ausencia en redes sociales por la polémica de 'lady usada'](#); C-Libre. September 7, 2020. [Mujer periodista denuncia ser víctima de ciberacoso](#).

¹³⁴⁹ C-Libre. September 30, 2020. [Mujer periodista amenazada de muerte en su cuenta de Twitter](#).

¹³⁵⁰ Confidencial HN. September 27, 2020. [Policías de La Ceiba agreden a periodistas que preguntaban por masacre en río Cangrejal](#); C-Libre. September 28, 2020. [Policías agreden e impiden labor de periodistas en La Ceiba](#); C-Libre. 28 de setiembre de 2020. [Policías agreden e impiden labor de periodistas en La Ceiba](#).

¹³⁵¹ C-Libre. November 3, 2020. [Periodistas de C-Libre detenidos ilegalmente y torturados por la Policía Nacional](#).

¹³⁵² C-Libre. January 30, 2020. [Policía de investigación detiene temporalmente al periodista Leonel George](#).

¹³⁵³ C-Libre. July 27, 2020. [Periodista denuncia persecución vehicular supuestamente ordenada por alcalde de Nacaome](#).

acquitted of the charges.¹³⁵⁴ On March 24, police detained advocate Evelyn Castillo, the deputy coordinator of the Ojojona Women's Network and a member of the National Network of Women Human Rights Defenders in Honduras, as she was returning from food shopping with her husband and daughter. A police officer intercepted her and allegedly reprimanded her for being out during the public health emergency, even though the curfew was not yet in force. When the police noticed that Ms. Castillo's daughter was recording the incident on her cell phone, they demanded the phone and erased the information. Ms. Castillo was arrested in an aggressive manner, with forceful pushing and shoving, and remained in custody until the next morning.¹³⁵⁵

863. On July 22, journalist Mauricio Ortega was arrested in the municipality of Puerto Cortés while, as part of his humanitarian work, he was transporting a group of Hondurans who had returned to the country. Ortega, director of *Noti Omoa* and a correspondent for several media outlets, alleged that this was police retaliation for his exposure of police abuses. Although the police initially said they would be charging him with human trafficking, they later told him he had violated the Law on Police and Social Coexistence and ultimately charged him with a traffic infraction. Ortega has been harassed several times by the police and various organizations have raised concerns about the risks to his safety.¹³⁵⁶

864. On August 10, Dr. Marco Elliud Girón, who has been critical of the government's handling of the COVID-19 pandemic, was arrested. He was detained for over 20 hours and physically assaulted. The Ministry of Security issued a statement indicating that the doctor had been arrested for allegedly threatening a couple with a firearm.¹³⁵⁷

D. Social protest

865. The Office of the Special Rapporteur of the IACHR has received reports of excessive use of force to disperse multiple demonstrations held in Honduras during 2020 in connection with the economic and health crisis resulting from the COVID-19 pandemic. According to a complaint received by the IACHR from the Association for Democracy and Human Rights (ASOPODEHU), the March 15 issuance of Executive Decree No. PCM-021-2020, which suspended several constitutional guarantees, led to serious human rights violations, arbitrary detentions, torture, and cruel, inhuman, and degrading treatment, at a time of intensified social protests over food shortages and unemployment caused by the COVID-19 crisis. In this context, the right to protest was one of the most frequently violated, with excessive use of repressive force by police and military personnel against demonstrators. According to information gathered by ASOPODEHU, between March 23 and June 22, 2020, at least 19 demonstrations were suppressed by the police and the Army.¹³⁵⁸ A survey by the organization C-Libre found that there were at least 83 social protests linked to the COVID-19 emergency in 12 departments of Honduras between March 23 and April 2.¹³⁵⁹

866. The Office of the Special Rapporteur received information on the repression of different citizen protest actions by police forces on January 29 in El Progreso, department of Yoro, and in Tegucigalpa.¹³⁶⁰ On April 1, three journalists were detained by the police while covering a protest by residents seeking to prevent the entry of vehicles from San Pedro Sula for fear of being infected with COVID-19. The police confiscated the journalists' work equipment and erased recorded material documenting alleged police abuses against

¹³⁵⁴ CIVICUS- June 5, 2020. [Honduras' Undue Restrictions on Expression and Police Abuse of Emergency Powers During Covid-19](#); Iniciativa Mesoamericana de Mujeres Defensoras de Derechos Humanos. March 19, 2020. [Activist Aleyda Huete arbitrarily arrested and criminalized during COVID-19 curfew](#).

¹³⁵⁵ Iniciativa Mesoamericana de Mujeres Defensoras de Derechos Humanos. March 30, 2020. [Policía detiene de manera arbitraria a la defensora Evelyn Castillo con la excusa de emergencia por COVID-19](#); CIVICUS- June 5, 2020. [Honduras' Undue Restrictions on Expression and Police Abuse of Emergency Powers During Covid-19](#).

¹³⁵⁶ Pasos de Animal Grande. July 22, 2020. [Periodista capturado: Me detienen porque ando cubriendo las noticias de las cosas malas que la policía hace](#); C-Libre. July 22, 2020. [Detienen a periodista Mauricio Ortega, sumando ataques policiales en su contra](#).

¹³⁵⁷ Policía Nacional de Honduras. August 10, 2020. [Comunicado](#); C-Libre. August 12, 2020. [Médico crítico de gobernante es encarcelado y agredido por más de 20 horas](#).

¹³⁵⁸ Information supplied to the IACHR by Asociación por la Democracia y los Derechos Humanos (ASOPODEHU) of Honduras. [Decretos de excepción y restricciones contra la libertad de expresión, derecho a la protesta y otros derechos humanos](#). July 16, 2020.

¹³⁵⁹ C-Libre. (n.d.) [Situación de la libertad de expresión y acceso a la información pública: Protestas por el hambre](#).

¹³⁶⁰ C-Libre. January 29, 2020. [Represión a protestas en diferentes puntos del país este 27 de enero](#); Radio Progreso. (n.d.). [Sigue la represión contra estudiantes en Ciudad Universitaria en Tegucigalpa](#).

citizens.¹³⁶¹ Journalists Alejandro Aguilar, press director of *Metro TV*, and Cinthia Macyeritt García, of *TVS*, were attacked with tear gas by members of the National Police while covering a cab drivers' protest on May 28 in the city of Choluteca.¹³⁶² On July 21, members of the National Police used tear gas bombs against residents of the Garífuna community of Sambo Creek who were demonstrating to demand the release of four leaders of the community of El Triunfo de la Cruz who had been abducted from their homes on June 18.¹³⁶³

867. In August and September, public outrage over the government's alleged mismanagement of funds allocated to the fight against the COVID-19 pandemic led to several demonstrations under the slogan "Where is the money?"¹³⁶⁴ According to the information received, three people were arrested on August 8 in San Pedro Sula for allegedly painting the slogan in a public space.¹³⁶⁵ On August 18, the mayor of the municipality of Utila, in Islas de la Bahía, Troy Bodden, offered a reward of 25,000 lempiras for information on those responsible for painting the phrase at the entrance of the municipal building.¹³⁶⁶ On September 7, a member of the National Police snatched the cell phone of journalist Bartolo Fuentes while he was covering a citizen protest over the management of public funds in connection with the pandemic in the city of El Progreso, department of Yoro.¹³⁶⁷ On September 15, members of the National and Municipal Police repressed a massive demonstration in downtown Tegucigalpa, organized by workers' unions, students, and other sectors to commemorate Independence Day in Honduras, by firing tear gas and water with chemicals. Cristian Espinoza, a 26-year-old protester, suffered eye injuries and had to be admitted to the Escuela Universitario Hospital. Human rights defenders Marcela Licona, Irma López, and Elizabeth Medina of Human Rights Without Borders (DHFH) were attacked by the National Police while they were evacuating elderly people affected by the tear gas. Demonstrators and human rights defenders were injured and several students were arrested. Media workers from *Criterio.hn* were threatened by police officers to leave the area. Agence France Press (AFP) photojournalist Orlando Sierra was hit by a tear gas bomb thrown by members of the National Directorate of Special Forces (DNFE).¹³⁶⁸

E. Stigmatizing statements

868. Journalist and advocate Dina Meza was the victim of a social media smear campaign after intervening to defend three members of the Civic Council of Popular and Indigenous Organizations of Honduras (COPINH) in the Comayagüela Trial Court following their arrest.¹³⁶⁹

869. Human rights defenders Juan López, Reinaldo Domínguez, Leonel George, and the social organizations Fundación San Alonso Rodríguez (FSAR) and the Coordinating Committee of Popular Organizations of Aguán (COPA), from the municipality of Tocoa, department of Colón, were the targets of a smear campaign on Facebook. Posts on the pages of *Tocoa Exclusivas* and *La Voz de Tocoa*, on April 8 and 14, accused the advocates of preventing "food donations from reaching families in Guapinol."¹³⁷⁰

¹³⁶¹ The journalists assaulted were Roger David Iraheta, of *Canal 6*, Onán Zaldívar of *Patepluma Televisión* and Edward Fernández, of *Canal 26*. Pasos de Animal Grande. April 1, 2020. [Detienen tres periodistas en Santa Bárbara, les decomisan su equipo y les borran el material sobre desalojo](#); C-Libre. April 1, 2020. [Policía agrede y detiene a periodistas en Santa Bárbara](#).

¹³⁶² Defensores en línea. May 28, 2020. [Policía de Choluteca arremete contra taxistas y periodistas](#); C-Libre. May 30, 2020. [Policías agreden a periodistas que cubrían protestas en Zona Sur](#).

¹³⁶³ Defensores en línea. July 21, 2020. [Policía reprime a manifestantes garífunas](#); Cespad. July 21, 2020. [Policía hondureña reprime protesta de Comunidad Garífunas y afecta gravemente a una niña](#).

¹³⁶⁴ Conexhion. (n.d.). [Nuevamente las calles representan la indignación ciudadana: ¿Dónde está el dinero?](#); Televisión. August 18, 2020. [Alcalde de Utila ofrece L 25 mil por información del responsable de pintar ¿Dónde está el dinero?, en el edificio municipal](#).

¹³⁶⁵ HONDUSA TV. August 16, 2020. [¡DENUNCIA! Detienen a médicos en SPS por pintar rótulos de «¿Dónde Está El Dinero?»](#); C-Libre. August 17, 2020. [Detienen a ciudadanos por expresar en vía pública consigna ¿Dónde está el dinero?](#).

¹³⁶⁶ Televisión. August 18, 2020. [Alcalde de Utila ofrece L 25 mil por información del responsable de pintar ¿Dónde está el dinero?, en el edificio municipal](#); Once Noticias. August 18, 2020. [Alcalde de Utila ofrece L 25 mil por información del responsable de pintar ¿Dónde está el dinero? en el edificio municipal](#).

¹³⁶⁷ C-Libre. September 10, 2020. [Policía arrebató celular a periodista y le niegan su devolución](#).

¹³⁶⁸ Pasos de Animal Grande. September 15, 2020. [Honduras: Manifestación del "Día de la Independencia" concluye en fuerte represión y ataques a defensores por la policía](#); Telesur. September 16, 2020. [Policía de Honduras reprime manifestaciones contra el Gobierno](#); Criterio. September 16, 2020. [Piden actuar contra policías y militares que reprimieron manifestación del 15 de septiembre](#); C-Libre. September 15, 2020. [Represión policial: Detenciones y heridos en manifestación popular por aniversario de independencia](#); C-Libre. September 16, 2020. [Policía dispara directamente contra fotoperiodista internacional](#).

¹³⁶⁹ C-Libre. (n.d.) [Informe Trimestral. Alertas por violaciones a la libertad de expresión](#).

¹³⁷⁰ C-Libre. April 25, 2020. [Campaña de desprestigio contra defensores en el departamento de Colón](#).

870. When asked about the alleged concealment of the numbers of positive cases and deaths due to the coronavirus in Honduras, the government commissioner for COVID-19, Lisandro Rosales, called the journalists “bitter people who are not even registered professionals” during an April 10 interview with journalist Edgardo Melgar on *Televisión*’s news program “*Hoy Mismo*.”¹³⁷¹

871. The Minister of Finance, Rocío Tábor, accused *Radio América* of invading her privacy by broadcasting an audio message she had sent to the then director of the public-private partnership *Inversión Estratégica de Honduras* (INVEST-H), Marco Bográn, related to the procurement of mobile hospitals during the public health emergency. The official sent a letter, dated July 16, to the station’s general manager, Sussel Muller, and to journalists Mauricio Ortega y Rodolfo Colindres, questioning their access to and disclosure of the recording.¹³⁷²

872. On July 29, after congressman and journalist Rony Martínez posted information on his Twitter account about alleged wrongdoing in government contracting with thermal power generation companies involving members of the Energy Committee of the National Congress, lawmaker and committee chairman Oscar Nájera declared that the journalist’s accusations were made because “he is gay” and that he “dislikes them.” He added, “I think that may be why he has personal animosity toward a member of the Energy Committee,” and threatened legal action against Martínez.¹³⁷³

F. Subsequent liability

873. The Office of the Special Rapporteur received information on complaints and criminal proceedings brought against journalists for their work in the news media. For example, journalist Milton Benítez, director of the program *El Perro Amarillo*, was sued for defamation by Banco Atlántida after he reported on alleged wrongdoing involving the bank’s operations in a Central American country. The complaint was admitted by the Trial Division of the Supreme Court of Justice (CSJ) [*Tribunal de Sentencia de la Corte Suprema de Justicia*] on January 14.¹³⁷⁴ The bank’s president, Guillermo Bueso, later filed new defamation complaints against Benítez. According to Bueso’s lawyer, the head of the bank has filed a total of 33 lawsuits against the journalist.¹³⁷⁵

874. Journalist Jairo López reported that the Public Prosecutor’s Office has brought a new criminal case against him, accusing him of “possession of commercial explosives, possession of homemade devices, unlawful possession of controlled substances (gunpowder with chlorate), and attacks against the domestic security of the State.”¹³⁷⁶ According to a press release from the Public Prosecutor’s Office, he was indicted on October 22 on charges of possession of commercial explosives, unlawful possession of controlled substances (gunpowder with chlorate) and possession of police equipment.¹³⁷⁷ The journalist has been barred from leaving the country and must report to court authorities every 15 days.¹³⁷⁸

875. The director of *Inversión Estratégica de Honduras* (INVEST-H), Marco Bográn, threatened on May 4 to file a criminal complaint against the directors of the National Anticorruption Council (CNA), Gabriela Castellanos and Odir Fernández, after the organization submitted a report on April 24 denouncing the

¹³⁷¹ C-Libre. April 13, 2020. [Comisionado para COVID-19 ataca a periodistas diciendo “amargados que ni colegiados están”](#); Criterio. April 21, 2020. [UNESCO condena campañas de desprestigio contra periodistas que informan sobre pandemia del COVID-19](#).

¹³⁷² Twitter account of El Pulso (@elpulsohn). July 17, 2020; C-Libre. June 19, 2020. [Secretaría de Finanzas fustiga a radioemisora tras divulgar tema de interés nacional](#).

¹³⁷³ C-Libre. July 30, 2020. [Diputado amenaza y emite comentarios homofóbicos contra periodista](#).

¹³⁷⁴ C-Libre. January 24, 2020. [Por querrela, periodista será llevado a juicio oral y público](#); C-Libre. (n.d.) [Informe Trimestral. Alertas por violaciones a la libertad de expresión](#); El perro amarillo TV. October 14, 2019. [BANCO ATLÁNTIDA INTERPONE QUERRELLA CONTRA MILTON OMAR BENÍTEZ](#).

¹³⁷⁵ Twitter account of Milton Benítez (@MiltonBeniteztv). August 31, 2020; STN Honduras. August 31, 2020. [¡Por difamación! Querellan nuevamente a Milton Benítez «El Perro Amarillo»](#); C-Libre. September 7, 2020. [Un total de 33 querellas por injurias se han interpuesto contra director de “El Perro Amarillo”](#).

¹³⁷⁶ C-Libre. (n.d.) [Informe Trimestral. Alertas por violaciones a la libertad de expresión](#); C-Libre. February 28, 2020. [Resurge persecución contra periodista Jairo López](#).

¹³⁷⁷ Ministerio Público. October 23, 2020. [Auto de Formal Procesamiento contra ciudadano que utilizaba explosivos y generaba violencia en manifestaciones en Choluteca](#).

¹³⁷⁸ Pasos de Animal Grande. October 22, 2020. [Cárcel por más de 20 años: Jueza decreta autos de prisión por tenencia de explosivos e indumentaria policial contra periodista Jairo López](#); C-Libre. October 28, 2020. [Juzgado declara culpable a periodista y agudiza criminalización en su contra](#).

procurement of masks at a price higher than what the Ministry of Health (SESAL) had paid for them. “When this is all over, they will have to face me in court, to answer for the defamation and harm they have caused my family,” said Bográn. According to the CNA, the elevated price at which INVEST-H acquired the masks cost the State 45,200,088 lempiras. During the COVID-19 pandemic, civil organizations have identified several alleged acts of corruption in the handling of funds to manage the crisis.¹³⁷⁹

876. On July 21, the Criminal Chamber of the Supreme Court of Justice (CSJ) upheld the conviction of Police Commissioner and National Congresswoman, María Luisa Borjas, who was sentenced to two years and eight months in prison for criminal defamation. The chamber denied the lawmaker’s cassation appeal and ruled the February 18, 2019, judgment of the Tegucigalpa Trial Court [*Tribunal de Sentencia Designada de Tegucigalpa*] “final and enforceable.” The criminal action against the congresswoman was brought by businessman Camilo Átala, after she accused him of being the mastermind behind the murder of environmentalist Berta Cáceres, and questioned the inaction of the Public Prosecutor’s Office in this and other crimes.¹³⁸⁰ In a press release, the National Network of Women Human Rights Defenders in Honduras and C-Libre condemned the silencing “through violence or criminalization, of themselves or of those who dare to raise their voices with them to condemn the situation.”¹³⁸¹ In October, the congresswoman reportedly left the country to seek medical treatment after being diagnosed with COVID-19 and in the face of a possible arrest warrant.¹³⁸²

G. Confidentiality of sources

877. In a statement released on June 1, the Board of Directors of the Chamber of Commerce and Industry of Comayagua asked journalist Luis Almendares to provide the name of the person who told him about changes in the board’s membership. The board also asked the journalist “to provide the evidence or documents” he mentioned in his publication and warned that it reserved “the right to go to the authorities” if he continued with such “irresponsible and completely false publications.”¹³⁸³

878. The intervening commission of *Inversión Estratégica de Honduras* (INVEST-H) summoned the newspaper *La Prensa* to reveal the source of information for the publication of a report on so-called mobile hospitals. In a press release issued on August 26, the commission asked the media outlet to publish information on the technical assessment of hospital conditions it supposedly carried out to support its article, which warned of alleged risks to the safety of physicians.¹³⁸⁴

879. Journalist Pedro González, a *UNE TV* correspondent, was summoned by the Public Prosecutor’s Office on September 11 to appear as a witness at its offices in San Pedro de Sula, as part of an investigation into the government’s procurement of mobile hospitals to treat people infected with COVID-19.¹³⁸⁵

H. Legal reforms

880. As part of the State of Emergency decreed by the Government of Honduras because of the COVID-19 pandemic, on March 15, the President of Honduras signed Executive Decree No. PCM-021-2020,¹³⁸⁶ suspending constitutional guarantees for seven days, including the right to freedom of expression enshrined in Article 72 of the Constitution and the rights to freedom of movement and the organization of social gatherings, among others. National and international organizations expressed concern over the scope of the measures taken. While recognizing that the circumstances warranted exceptional measures, they pointed out that such measures must meet the criteria of necessity and proportionality: “Limiting freedom of expression at this time of crisis is disproportionate and contrary to the objective of combating the pandemic, causing

¹³⁷⁹ Confidencial. April 27, 2020. [Director de Investh amenaza con demandar a cúpula del CNA por informar sobre compras amañadas](#); C-Libre. May 8, 2020. [Titular de INVEST-H amenaza con querellar a responsables de informe sobre corrupción por COVID 19](#).

¹³⁸⁰ IACHR. [Annual Report 2019. Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter II. OEA/Ser.L/V/II. Doc. 5. February 24, 2020. Par. 823.

¹³⁸¹ El Pulso. July 21, 2020. [Ratifican condena de cárcel a la diputada María Luisa Borjas](#); Pasos de Animal Grande. July 21, 2020. [Ratifica la cárcel para la parlamentaria: Sala de lo Penal rechaza Recurso de Casación a favor de diputada María Luisa Borjas](#).

¹³⁸² El Pulso. October 5, 2020. [María Luisa Borjas sale del país por Covid-19 y temor por situación legal](#); C-Libre. October 13, 2020. [Condena por delitos contra el honor orilla a diputada opositora salir del país](#).

¹³⁸³ C-Libre. June 5, 2020. [Periodista es emplazado para revelar su fuente en denuncia contra empresarios](#).

¹³⁸⁴ C-Libre. August 30, 2020. [Comisión interventora de INVEST-H emplaza a medio de comunicación para develar fuente de información](#).

¹³⁸⁵ C-Libre. September 14, 2020. [MP cita a periodista en condición de “testigo” en investigación contra la administración pública](#).

¹³⁸⁶ Gobierno de Honduras. Consejo de Secretarios de Estado. [Decretos Ejecutivos aprobados en Consejo de Ministros año 2020](#).

unnecessary harm to human rights and public health.”¹³⁸⁷ According to a March 16 statement issued by United Nations human rights experts, “restrictions taken to respond to the virus must be motivated by legitimate public health goals and should not be used simply to quash dissent.”¹³⁸⁸

881. Later, on March 21, the Honduran government issued Executive Decree PCM-022-2020159, lifting the suspension of the guarantees established in Article 72 of the Constitution.¹³⁸⁹ The measures restricting fundamental rights contained in Executive Decree No. PCM-021-2020 and its subsequent amendments were extended in successive decrees.¹³⁹⁰

882. The Office of the Special Rapporteur also received information on the entry into force, on June 25, of a new Criminal Code in Honduras. The new code was questioned by national and international civil society organizations for its restrictive content on freedom of expression, assembly, and association. The concerns are based on the inclusion of crimes against honor such as criminal libel and slander and provisions that impose criminal liability for offenses committed while exercising the right to protest, which could affect rights such as freedom of expression and access to information.¹³⁹¹ Against the backdrop of the COVID-19 pandemic, articles of the code that impose prison sentences on anyone who “spreads a human epidemic through the dissemination of pathogenic agents or germs,” which could result in limiting the exercise of citizen protests over scarce resources and economic crisis, and that criminalize the dissemination of “fake” economic news or rumors, caused particular concern.¹³⁹²

883. The National Anticorruption Council sent a letter to the IACHR expressing its concern about provisions of the code that could encourage impunity and criminalize the defense of human rights. The executive branch also expressed concern about some aspects of the code and sent the legislature a proposal for its amendment.¹³⁹³

884. On August 27, the Committee for Free Expression (C-Libre) filed an action challenging the constitutionality of Legislative Decree 130-2017, which created the new Criminal Code, on procedural grounds. The action alleges that the National Congress failed to follow the constitutionally established procedure for the enactment of a law.¹³⁹⁴

885. During a virtual session convened by the legislature on June 9 to debate the content of the Criminal Code with opinion leaders, journalist Nelyi Larice was reportedly kicked out when he voiced his criticism of the legislation. The journalist complained that it was not an electrical or internet signal failure.¹³⁹⁵

I. Access to public information

886. The Office of the Special Rapporteur received information on various situations that hindered access to information for journalists and the general public, especially information related to the impact and management of the COVID-19 pandemic. Journalist Ricardo Patiño was removed from a session of the municipal corporation of Tela, Atlántida department, on March 2, at the request of councilman Mario Fuentes.

¹³⁸⁷ Access Now. March 20, 2020. [Exigimos respeto a la libertad de expresión y al derecho a la protección de datos personales en Honduras](#); Committee to Protect Journalists (CPJ). March 18, 2020. [Honduran government declares state of emergency, suspends right to free expression](#).

¹³⁸⁸ UN. OHCHR Central America. March 16, 2020. [COVID-19: los Estados no deberían abusar de medidas de emergencia para suprimir derechos humanos – expertos/as de la ONU](#).

¹³⁸⁹ Gobierno de Honduras. Consejo de Secretarios de Estado. [Decretos Ejecutivos aprobados en Consejo de Ministros año 2020](#); Pasos de Animal Grande. March 26, 2020. [Gobierno retrocede en suspensión de la libertad de expresión y fomentar las detenciones ilegales](#).

¹³⁹⁰ Consejo de Secretarios de Estado. [Decretos Ejecutivos aprobados en Consejo de Ministros año 2020](#).

¹³⁹¹ DW. June 25, 2020. [Entra en vigencia polémico código penal en Honduras](#); La Prensa. June 25, 2020. [Nuevo Código Penal es un riesgo grave para la libertad de expresión en Honduras](#); Committee to Protect Journalists (CPJ). June 26, 2020. [Honduras enacts penal code maintaining ‘crimes against honor’](#)<https://cpi.org/es/2020/06/honduras-adopta-codigo-penal-que-mantiene-los-delitos-contra-el-honor/>; Artículo 19. June 8, 2020. [Llamado al Congreso Nacional de Honduras para suspender y revisar el nuevo Código Penal, el cual es adverso a la libertad de expresión](#); Pasos de Animal Grande. June 8, 2020. [Dicen Organizaciones Internacionales: Nuevo Código Penal contribuye a la adversidad para ejercer el periodismo y lesiona seriamente los DDHH en Honduras](#).

¹³⁹² Article 19. [Informe especial C.O.V.I.D: Libertad de expresión e información durante pandemia de COVID-19 en México y CA](#). July 2020

¹³⁹³ DW. June 25, 2020. [Entra en vigencia polémico código penal en Honduras](#); La Prensa. June 25, 2020. [Nuevo Código Penal es un riesgo grave para la libertad de expresión en Honduras](#); Committee to Protect Journalists (CPJ). June 26, 2020. [Honduras enacts penal code maintaining ‘crimes against honor’](#).

¹³⁹⁴ C-Libre. August 27, 2020. [C-Libre presenta inconstitucionalidad ante vigencia de nuevo Código Penal](#).

¹³⁹⁵ C-Libre. June 14, 2020. [Poder Legislativo saca de reunión virtual a periodista por criticar nuevo Código Penal](#).

According to the journalist, the action was a reprisal for several investigations implicating the councilman—who served as mayor of the municipality from 2014 to 2018—in corrupt acts.¹³⁹⁶ Journalists from *Radio Globo* and *CriterioHN* were denied access to cover an event on transparency on February 10 at the Institute for Access to Public Information (IAIP) in Tegucigalpa.¹³⁹⁷ Similarly, *Radio Progreso* reported on November 11 that a journalist from the station was denied entry to the headquarters of the Emergency Operations Center (COE) to report on local authorities' emergency response to tropical storm Eta in the department of Yoro.¹³⁹⁸

887. The Institute for Access to Public Information (IAIP) suspended its activities during the COVID-19 crisis, under the guidelines approved in Executive Decree PCM-021-2020. In a statement dated March 21, the IAIP said it had decided to “suspend the services this institution provides to citizens and place its public servants on leave” until a return to work is authorized. The processing of requests for information through the Electronic Information System of Honduras (SIEHLO) was also suspended.¹³⁹⁹

888. Authorities from the National Port Authority (ENP) and the Central American Port Operator (OPC) determined on July 9 that no media could witness the unloading of the mobile hospitals for the treatment of coronavirus patients in Honduras. The authorities indicated that a link would be set up to broadcast the ship's arrival. The media restriction was announced hours after Turkey's honorary consul in Honduras publicly stated that what was arriving on the ship was only the “shell” of a mobile hospital. The purchase of the mobile hospitals was the subject of controversy due to accusations of fraud and profiteering, which led to the intervention of the National Congress and the resignation of the responsible senior official.¹⁴⁰⁰ Later, in a July 27 press release, the INVEST-H intervening commission barred the attendance of journalists, photographers, and videographers during the process of moving and installing a mobile hospital in the city of San Pedro Sula, citing issues related to “occupational and physical safety.”¹⁴⁰¹

889. In an official letter issued on July 17, Dinorah Nolasco, head of the Health Region in the department of Cortés, prohibited medical personnel from giving statements on behalf of the Ministry of Health to journalists, or to judicial and human rights entities, without authorization.¹⁴⁰²

890. On November 3, the Government created the Ministry of Transparency, which will be in charge of “coordinating, facilitating, promoting, and institutionalizing the implementation of the National Probity, Integrity, and Prevention Policy of the Transparency and Anti-Corruption Strategy.” According to Decree PCM 11-2020, published in the Official Gazette on November 6, the new Ministry “will issue general guidelines on transparency and accountability, which will be mandatory for public institutions,” and “will assist the President of the Republic” in matters related to transparency and the fight against corruption. The decree would thus remove powers from the Institute for Access to Public Information (IAIP)—a body established in the Law on Transparency and Access to Public Information, enacted by Legislative Decree 170-2006, to regulate compliance by government agencies—and would transfer part of its duties to a ministry reporting directly to the executive branch. This has been called into question by civil society organizations, which note that the ministry will be a parallel body to the IAIP, with less independence from the executive branch, and that it was created to diminish the IAIP's powers.¹⁴⁰³

891. This office also took note of several restrictions on recording and accessing information of significant public interest that could affect human rights. For example, staff working at the Gabriela Alvarado Hospital in Danlí, department of El Paraíso, had to sign a “letter of confidentiality” as a pledge not to disclose information

¹³⁹⁶ Radio Progreso. March 3, 2020. [VIOLENTAN El comunicador social Ricardo Patiño de Tela, Atlántida denuncia en Radio Progreso que el regidor y ex alcalde Mario Fuentes...](#); C-Libre. March 13, 2020. [Regidor hace que expulsen a periodista en cobertura de sesión municipal.](#)

¹³⁹⁷ ConfidencialHN. February 20, 2020. [IAIP niega ingreso a evento de transparencia a ConfidencialHN y Radio Globo](#); C-Libre. February 15, 2020. [Impiden acceso de periodistas a evento de transparencia.](#)

¹³⁹⁸ Radio Progreso. November 11, 2020. [Impiden a Radio Progreso hacer cobertura periodística en el COE de El Progreso](#); C-Libre. November 13, 2020. [Por “órdenes superiores” bloquean cobertura informativa a Radio Progreso en instalación municipal.](#)

¹³⁹⁹ C-Libre. March 24, 2020. [Paralizado acceso a información pública en Honduras.](#)

¹⁴⁰⁰ Tiempo Digital. April 9, 2020. [Sin medios de comunicación será el desembarque de hospitales móviles](#); C-Libre. July 10, 2020. [Autoridades hondureñas bloquean información relacionada a compras de emergencia por COVID-19 a medios de comunicación](#); La Prensa. July 9, 2020. [No dejarán entrar a medios en desembarque de hospitales móviles.](#)

¹⁴⁰¹ C C-Libre. July 28, 2020. [Interventores de INVEST-H obstaculizan labor de periodistas en llegada de hospitales.](#)

¹⁴⁰² C-Libre. July 22, 2020. [Jefa de Región Sanitaria en Cortés limita vocerías para informar a periodistas sobre epidemia por COVID-19.](#)

¹⁴⁰³ La Gaceta. Diario Oficial de la República de Honduras. [Decreto PCM 11-2020.](#) November 6, 2020. C-Libre. November 13, 2020. [Poder Ejecutivo crea dependencia que resta atribuciones al IAIP](#); Criterio. November 8, 2020. [Gobierno le monta paralela al IAIP: crea Secretaría de la Transparencia](#); Tiempo. November 9, 2020. [Oficial: gobierno crea la Secretaría de Presidencia, paralela a la IAIP.](#)

on activities at the hospital. The memorandum, issued on April 1 by the hospital's chief of staff, Dinabel Ávila, is said to have originated in an official letter (number 053-DHGA-2020) sent by the hospital's Executive Director, calling on all staff to sign the confidentiality document. The organization C-Libre criticized the fact that "the right to free expression and access to information" is being limited during the health crisis.¹⁴⁰⁴

892. An order from the Chief of the Joint Chiefs of Staff of the Armed Forces (FFAA) also banned military personnel from expressing themselves through videos, according to information released by the institution on May 12. According to the organization C-Libre, a memorandum was issued stating that, on the instructions of Chief of Staff Tito Livio Moreno, it is "strictly forbidden to make and upload videos of any kind through the Tik Tok app." The same memorandum reportedly stated that disobedience "will be sufficient grounds for disciplinary proceedings under military laws and regulations." According to media reports, a member of the Army, Esdras Samuel Berrios, was discharged for uploading a video to Tik Tok that dishonored the Armed Forces. According to reports, the decision was later reversed to clear his record. The National Human Rights Commissioner (CONADEH) is said to have opened an investigation into the case.¹⁴⁰⁵

893. The Office of the Special Rapporteur notes that such prohibitions may conflict with international freedom of expression obligations when it comes to the recording and reporting of serious human rights violations. The Inter-American Court has held that, to guarantee the right to information, public authorities must act in good faith and diligently carry out the actions needed to ensure the effectiveness of this right, especially for purposes of learning the truth about what has occurred in cases of serious human rights violations.¹⁴⁰⁶

J. Internet and freedom of expression

894. The organization *Reporteros de Investigación* asserted on April 9 that during the COVID-19 pandemic "the government has used its communication tools to spread propaganda to discredit and undermine internet freedom and communication through social media, manipulating public opinion and provoking attacks from the public against the alternative media that use the internet responsibly as a communication tool because we oppose the control of the media by the government, the army, and power groups that have historically distorted and manipulated the truth."¹⁴⁰⁷

895. On April 22, the Social Forum on Foreign Debt and Development in Honduras (FOSDEH) condemned attempts to hack the personal account of one of its spokespersons, economist Alejandro Kaffati, who has been critical of the government's management of the budget during the COVID-19 pandemic.¹⁴⁰⁸

896. On May 26, the feminist platform *Somos Muchas* reported that it was the target of a cyber-attack while giving a presentation on the criminalization of abortion in Honduras. According to an alert issued by the National Network of Women Human Rights Defenders in Honduras, four individuals broke into the researchers' Zoom presentation and posted Nazi symbols, scribbled on the researchers' presentation, and played videos of men exposing their genitals, causing the presentation to be temporarily suspended. According to the National Network of Women Human Rights Defenders, this is not the first time that members of the feminist platform *Somos Muchas*, and its spokeswomen, "have been victims of cyber-attacks related to their feminist activism and defense of the sexual and reproductive rights of women and girls."¹⁴⁰⁹

897. The press team of the newspaper *El Libertador* reported in August that Facebook had blocked certain actions on its page on the social network.¹⁴¹⁰

K. Other relevant situations

¹⁴⁰⁴ C-Libre. April 9, 2002. [Obligan a firmar confidencialidad en Hospital de zona oriental hondureña.](#)

¹⁴⁰⁵ C-Libre. May 14, 2020. [FFAA prohíbe a militares subir videos a cualquier aplicación.](#)

¹⁴⁰⁶ I/A Court H. R. *Case of Gomes Lund et al. ("Guerrilha do Araguaia"). v. Brasil.* [Preliminary Objections, Merits, Reparations, and Costs]. Judgment of November 24, 2010. Serie C No. 219. Par. 211

¹⁴⁰⁷ Information received by the Office of the Special Rapporteur.

¹⁴⁰⁸ C-Libre. April 27, 2020. [Robo de información y bloqueo de cuenta, denuncia líder de opinión pública.](#)

¹⁴⁰⁹ C C-Libre. May 30, 2020. [Plataforma Somos Muchas víctimas de ciberataque](#); Red Nacional de Defensoras de DDHH en Honduras. May 27, 2020. [Con mensajes misóginos y fascistas atacan cibernéticamente a compañeras de la plataforma Somos Muchas.](#)

¹⁴¹⁰ C-Libre. August 29, 2020. [Bloqueos en página de Facebook denuncia periódico EL LIBERTADOR.](#)

898. According to monitoring by the organization C-Libre, at least 19 journalists and media workers have tested positive for COVID-19 since the first case was reported in the country on April 15.¹⁴¹¹

899. Several lawmakers complained that they were blocked and prevented from participating in a virtual session of the National Congress held on April 24, in which 10 bills were passed under the framework of the COVID-19 emergency.¹⁴¹²

900. According to the organization C-Libre, at least seven media workers died of COVID-19 in Honduras. They included four journalists, a photographer, and an administrative employee. Photojournalist Pedro Boquín died on June 26. Days earlier, he had been admitted to the Honduran Institute of Social Security (IHSS) after testing positive for COVID-19, besides suffering from diabetes. During the month of July, several journalists died in the southern region and in the capital of Honduras. On July 2, Francis Jaqueline Bojórquez, founder of the Honduran Press Association (APH) and the Alert and Protection Network of Journalists and Media Workers (RAPCOS) in the southern region, died in Choluteca of health complications after being diagnosed with COVID-19 and admitted to the southern city's hospital. In Tegucigalpa, Pablo Gerardo Matamoros, news director and news anchor of *Canal HCH*, died after being hospitalized in a private clinic.¹⁴¹³ On July 25, journalist Edilberto Zelaya died of COVID-19 after being hospitalized at the National Cardiopulmonary Institute (El Tórax) in Tegucigalpa.¹⁴¹⁴

901. Journalist David Romero died on July 18 after several days in the National Cardiovascular Institute after testing positive for COVID-19. The journalist had been held in the Támara National Penitentiary since March 2019, serving a 10-year prison sentence for the crime of defamation against prosecutor Sonia Gálvez.¹⁴¹⁵ On March 21, 2019, the IACHR had granted precautionary measures to Romero, and had requested that the State suspend the execution of the sentence handed down on March 15, 2016 by the Tegucigalpa Trial Court [*Tribunal de Sentencia de Tegucigalpa*].¹⁴¹⁶

902. Based on the facts observed in Honduras, this Office of the Special Rapporteur calls on the State to pay special attention to the following:

903. **The murder of journalists is the most extreme form of censorship, and impunity contributes to self-censorship of the press.** States have a positive obligation to identify and punish the perpetrators of these crimes. As the IACHR and its Office of the Special Rapporteur have noted repeatedly, the State must fully, effectively, and impartially investigate the murders of journalists, identify the motives behind these crimes, and determine in court whether they are related to journalistic activity and freedom of expression. The authorities should not rule out the practice of journalism as a motive for the murder or assault before the investigation is completed. Omitting logical lines of investigation or failing to properly collect evidence can have serious repercussions on the development of a case at the indictment or trial stage.¹⁴¹⁷ This office has repeatedly taken note of violence against journalists and media workers in Honduras. In its 2019 Report on the Situation of Human Rights in Honduras, the IACHR emphasized that violence against journalists and impunity for these crimes continue to undermine the right to freedom of expression in the country.

904. **Social protest, which includes the rights of peaceful and unarmed assembly, association, and freedom of expression, is a fundamental tool in the defense of democracy and human rights.** The Office of the Special Rapporteur reiterates that it is inadmissible in principle to criminalize per se demonstrations on public thoroughfares when carried out within the framework of the right to freedom of expression and the

¹⁴¹¹ C-Libre. June 15, 2020. [Amplio número de periodistas anunciaron ser positivo por COVID-19](#).

¹⁴¹² Proceso. April 24, 2020. [Diputados denuncian que les negaron el ingreso a la sesión virtual del CN](#); C-Libre. April 27, 2020. [Diputados opositores denuncian bloqueo para participar en sesión virtual](#).

¹⁴¹³ C-Libre. July 10, 2020. [Ante endeble sistema de salud, Honduras registra periodistas fallecidos por COVID-19](#); EFE. June 2, 2020. [Unos 18 comunicadores hondureños han contraído COVID-19](#).

¹⁴¹⁴ C-Libre. July 27, 2020. [En ocho días fallece otro periodista por COVID-19](#); El Heraldo. July 25, 2020. [Muere por Covid-10 el periodista hondureño Edilberto Zelaya](#).

¹⁴¹⁵ El Heraldo. July 18, 2020. [Muere el periodista David Romero Ellner víctima de covid-19](#); Committee to Protect Journalists (CPJ). July 19, 2020. [Honduran journalist David Romero dies after contracting COVID-19 in jail](#).

¹⁴¹⁶ IACHR. [RESOLUCIÓN 15/2019. Medida cautelar No. 75-19](#). José David Ellner Romero respecto de Honduras. March 21, 2019.

¹⁴¹⁷ IACHR. Office of the Special Rapporteur for Freedom of Expression. [Special Study on the Status of Investigations into the Murders of Journalists during the 1995-2005 Period for Reasons that may be Related to their Work in Journalism](#). OEA/Ser.L/V/II.131. Doc. 35, March 8, 2008, par. 116.

right to assembly.¹⁴¹⁸ It recalls that it is the State's duty to guarantee the exercise of the right to protest and that no participant may be subjected to illegal or arbitrary detention. States should not engage in practices of mass, collective, or indiscriminate arrests at public demonstrations. They should also be especially mindful that freedom of expression protects the right to record and disseminate any incident, and that they should provide journalists with the highest protection so they can carry out their work freely and keep society informed on matters of significant public interest. The Office of the Special Rapporteur calls upon the Honduran authorities to order an end to the disproportionate use of force by State security forces and to protect journalistic activity and recalls that the actions of the National Police in maintaining public order must strictly comply with international standards governing the use of force under the principles of exceptionality, proportionality, and absolute necessity.

905. Using criminal mechanisms to punish speech on matters of public interest, especially in relation to public officials, is incompatible with inter-American standards. The IACHR and its Office of the Special Rapporteur emphasize that under Article 13 of the American Convention, speech on matters of public interest enjoys enhanced protection, especially when it expresses essential elements of identity or condemns situations of violence and structural discrimination. Principle 11 of the Declaration of Principles on Freedom of Expression of the IACHR states that “[p]ublic officials are subject to greater scrutiny by society. Laws that penalize offensive expressions directed at public officials, generally known as ‘*desacato* laws,’ restrict freedom of expression and the right to information.” The use of criminal law as a mechanism to prosecute those who express opinions, information, or criticism of government authorities or policies, or speak out about issues of public interest, has a chilling effect that limits freedom of expression.

906. The transparency and accountability of public authorities strengthen democratic systems. Principle 4 of the Declaration of Principles on Freedom of Expression of the IACHR states that “[a]ccess to information held by the state is a fundamental right of every individual. States have the obligation to guarantee the full exercise of this right. This principle allows only exceptional limitations that must be established by law in case of a real and imminent danger that threatens national security in democratic societies.” The IACHR Resolution on Pandemic and Human Rights¹⁴¹⁹ highlighted the importance of access to information in the COVID-19 pandemic and the crucial role of journalists in the public health emergency by reporting on critical issues and monitoring government actions. The IACHR and its Office of the Special Rapporteur recall in particular that, based on the obligation of active transparency, States must proactively provide truthful and reliable information on all aspects of public interest related to the pandemic, in open formats and in a manner accessible to everyone. Given the digital divide, States must find effective ways to implement the obligation of active transparency in these circumstances.¹⁴²⁰

907. States have a positive obligation to provide the press with the highest protection to enable them to carry out their work freely. The Office of the Special Rapporteur notes its particular concern about violations of freedom of expression and restrictions on the right to information resulting from measures that States in the region have implemented in response to the COVID-19 pandemic. The IACHR and the Office of the Special Rapporteur call upon States to guarantee the right to freedom of expression and access to information, and strongly urge them to guarantee the critical role of the press in a pandemic. The Office of the Special Rapporteur cautions that restricting journalists' access to press conferences, creating or using criminal offenses to punish the dissemination of ideas and information labeled “fake,” and implementing digital cyber-policing measures may undermine fundamental freedoms.¹⁴²¹

¹⁴¹⁸ IACHR. [Annual Report 2005. Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#) (Chapter V Public Demonstrations as an Exercise of Freedom of Expression and Freedom of Assembly). OEA/Ser.L/V/II.124 Doc. 7. February 27, 2006. Par. 96

¹⁴¹⁹ IACHR. Resolution No. 1/20. [Pandemic and Human Rights in the Americas](#). April 10, 2020.

¹⁴²⁰ IACHR. Special Rapporteurship for Freedom of Expression. April 18, 2020. [Press release R78/20. IACHR and its SR FOE express concern about restrictions on freedom of expression and access to information in States' response to the COVID-19 pandemic](#).

¹⁴²¹ IACHR. Special Rapporteurship for Freedom of Expression. April 18, 2020. [Press release R78/20. IACHR and its SR FOE express concern about restrictions on freedom of expression and access to information in States' response to the COVID-19 pandemic](#).

JAMAICA

908. In the context of the pandemic, the Office of the Special Rapporteur took note of a series of acts of harassment against the media by government officials. This Office welcomes the sanction of a Data Protection Act in Jamaica, although it shares the concerns of journalism organizations regarding the risks that some of the law's provisions pose to the exercise of freedom of expression. The Office of the Special Rapporteur also views positively the government's focus on Internet access issues in the country in the context of the pandemic, particularly for rural populations and other intersectionalities, like school-age children and adolescents.

A. Threats to and restrictions on journalists and media outlets

909. On August 18, prior to the general elections in Jamaica, the police detained a TVJ cameraperson while he was covering Nomination Day activities in South Central St. Catherine. The videographer had been recording the nomination of the People's National Party (PNP) candidate, Kurt Matthews, at the Seventh Day Adventist Church on Old Harbour Road in Spanish Town. According to the information available, shortly after the cameraman emerged from the building, the police told him he had committed a breach, detained him, and confiscated his camera, which they later returned to him. The cameraman was later released.¹⁴²²

910. The Press Association of Jamaica (PAJ) along with editors and executives at the island's major media houses, called for Prime Minister Andrew Holness to rescind the order prohibiting members of the media from moving about during the period of lockdown in St. Catherine. PAJ President George Davis said it was of vital public interest that the media be allowed to continue reporting, especially during a moment of crisis. "The very fact that the measures taken by the state to contain the spread of the coronavirus have involved far-reaching curtailment of constitutional rights makes it even more important that the state does not fetter the

¹⁴²² Radio Jamaica News. August 18, 2020. [TVJ videographer detained while covering Nomination Day activities](#); Television Jamaica. August 19, 2020. [TVJ Camera Man Arrested](#).

media's work at this time," said Davis.¹⁴²³ In response, the Government agreed to change the measure restricting the movement of media workers to contain the spread of the virus.¹⁴²⁴

B. Stigmatizing statements

911. On February 13, the mayor of Lucea, Sheridan Samuels, said "I hate the media." The official, who was chairing the monthly meeting of the Hanover Municipal Corporation (HMC), attacked the media in response to recent reports on the dirty and unhealthy state of the parish of Hanover. "I am not just bitter, I hate the media. I hate the media, and as a matter of fact, not just the media. I hate some people who work in the media," he said, according to information received by the Office of the Special Rapporteur. Mayor Sheridan Samuels is one of the four councillors of the People's National Party (PNP) in the Hanover Municipal Corporation, and according to the information available, he alleges a media plot to make his administration look bad. "You must report and report correctly," he said.¹⁴²⁵

912. Local Government Minister Desmond McKenzie rejected Mayor Sheridan Samuels' criticism of the media, calling it "completely unacceptable," especially having done so in an official meeting of the municipal corporation, which he chairs. He said discussion about political affairs should not be allowed to descend into "hatred and personal offence."¹⁴²⁶

C. Censorship

913. On October 30, 2020, the Supreme Court of Civil Appeal of Jamaica ruled that broadcasters Television Jamaica Limited and CVM Television Limited had acted in accordance with the law on declining to broadcast an ad called "Love & Respect," produced by the international organization AIDS-Free World, which promoted respect for the human rights of LGBT persons.¹⁴²⁷ In his lawsuit, attorney and human rights defender Maurice Tomlinson argued that the TV chains had violated his right to freedom of expression and to disseminate information, opinions, and ideas in any media, as guaranteed by the Charter of Fundamental Rights and Freedoms of Jamaica. The attorney indicated that pursuant to the Charter, companies cannot refuse to broadcast an advertisement for arbitrary, discriminatory, or unreasonable motives. For their part, the TV channels argued that the content could represent a form of support for a criminal activity (sexual activity between persons of the same sex, which remains criminalized in Jamaica) and that it "could incite violence or breach of the peace."¹⁴²⁸ Although the Court's judgment indicated that the Charter of Fundamental Rights and Freedoms of Jamaica requires private parties to respect constitutionally protected rights, in its final judgment, it found that the TV broadcasters had not violated those rights.

914. As indicated, this was the first time the Court has weighed how rights protected by the Charter of Fundamental Rights and Freedoms—in this case, freedom of expression and the right to disseminate information and ideas through the media—should be interpreted with regard to private enterprises and not the State. The organization HIV Legal Network, which provided support for the defense in the case, said it was profoundly disappointed by this new case of LGBT persons silenced by the justice system. "In this case, after years of litigation, justice for LGBT people has been both delayed and now denied outright."¹⁴²⁹

D. Freedom of expression on the internet

915. The COVID-19 pandemic posed particular challenges to the right to freedom of expression, which was exercised mainly over the Internet. Jamaica's rural populations were disproportionately affected by lack of Internet access.¹⁴³⁰ In May 2020, Minister of Science, Energy and Technology Fayval Williams said COVID-19 had brought into sharp focus the need to make access to the Internet a right for every Jamaican citizen, and

¹⁴²³ Jamaica Gleaner. April 16, 2020. [PAJ wants gov't to roll back order curtailing media access in St Catherine.](#)

¹⁴²⁴ Jamaica Gleaner. April 17, 2020. [Journalists get all-clear to move about in St Catherine lockdown.](#)

¹⁴²⁵ Jamaica Gleaner. February 14, 2020. ['I hate the media' - Lucea mayor sounds off on local journalists](#); Jamaica Gleaner. April 16, 2020. [PAJ wants gov't to roll back order curtailing media access in St Catherine.](#)

¹⁴²⁶ Jamaica Gleaner. February 15, 2020. [McKenzie slams Lucea mayor for media hate outburst.](#)

¹⁴²⁷ Court of Appeal. [Tomlinson \(Maurice\) v. Television Jamaica Limited et al.](#) October 30, 2020; HIV Legal Network. October 30, 2020. [Jamaican Court allows TV stations to censor advertisement urging respect for LGBT people.](#)

¹⁴²⁸ Court of Appeal. [Tomlinson \(Maurice\) v. Television Jamaica Limited et al.](#) October 30, 2020. Par. 143.

¹⁴²⁹ HIV Legal Network. October 30, 2020. [Jamaican Court allows TV stations to censor advertisement urging respect for LGBT people.](#)

¹⁴³⁰ Jamaica Observer. October 1, 2020. [Administrators worried about Internet access as schools prepare to reopen](#); Jamaica Gleaner. April 24, 2020. [Rural students not being treated equally - Casserly calls for more Internet access in rural Hanover.](#)

that science and technology are crucial in the fight against COVID-19 and the current social issues. “While we have experienced some challenges, I want Jamaica to know that the COVID setback is not a step back. Where there are challenges, we see opportunities; where there is lack, we see plenty; and where there are impossibilities, we see tremendous possibilities,” she said, reiterating her commitment to upgrade and strengthen the country’s information and communications technology infrastructure.¹⁴³¹

916. Likewise, in December 2020, representatives of the Government said they were implementing three important technology initiatives aimed at increasing access to the Internet and electronic educational content for students living in rural and inner-city communities. Speaking in the House of Representatives, Minister of Science, Energy, and Technology Daryl Vaz said the Government would be providing the Public Broadcasting Corporation of Jamaica (PBCJ) with the capacity to broadcast digitally, enabling it to offer multiple channels with educational content 24 hours a day. “This decision is grounded in the fact that digital broadcast can reach over 85% of households who own a Smart TV set,” he said.¹⁴³²

E. Legal reforms

917. On June 12, Jamaica's Senate passed the Data Protection Act, which sets guidelines on how physical or electronic data should be collected, processed, stored, used, and released, in order to protect citizen privacy and personal information. The law is the fifteenth on data privacy in the Caribbean.¹⁴³³ The bill, which was passed the Lower House on May 19 without amendments, was greenlit by the senators with three amendments. According to the information available, Clause 76 of the bill establishes a transition period to allow data controllers time to take the steps necessary to ensure full compliance with the legislation. At the conclusion of debate on the legislation, the Leader of Government Business, Senator Kamina Johnson Smith, said a “public education” exercise would be undertaken during the two-year transitional period before the legislation came into effect.¹⁴³⁴ Senator Johnson Smith noted the campaign would be important for promoting the positive aspects of the bill.

918. In an editorial on June 29, the *Jamaica Gleaner* published an editorial saying the law would be “a threat to free press.”¹⁴³⁵ According to the newspaper, although the law establishes standards for which firms must protect users’ data, the provisions as to how they would be applied to the media are problematic. It notes that while Section 36 of the proposed law purports to exempt from sanction personal information used in a journalistic pursuit, if the data controller (journalist) “reasonably believes” that publication of the information is in the public’s interest, then the bar set for determining that standard is extremely high. In this regard, it notes that in the absence of a broad exemption of media institutions from the law, journalists could face the peril of a subjective determination of sanctions. It also notes that the law could pose a risk to freedom of the press and investigative journalism by punishing with prison and fines those who refuse to reveal their sources or hand over documents or files.

919. On August 3, the Press Association of Jamaica joined the call by the editorial writers of the *Jamaica Gleaner* for the government to “pull back” and revise the “problematic provisions” of the Data Protection Act. The organization said there were serious concerns about the overly-broad powers of the Information Commissioner created by the law. “Legal action after the fact cannot be the answer. (...) Forcing disputes through the court system may well result in killing important pieces of journalism and will, arguably, amount to giving a license to the imposition of prior restraint, long regarded as almost always unacceptable in journalism,” the Press Association of Jamaica warned. It also expressed its concern at the references to the implementation of data protection legislation in Europe that ignore the “negative and problematic effects of that legislation.”¹⁴³⁶

920. In view of the aforementioned facts, the Office of the Special Rapporteur calls on the State of Jamaica to take special note that:

¹⁴³¹ Jamaica Observer. May 29, 2020. [Gov't committed to making Internet access a right, says minister.](#)

¹⁴³² Jamaica Observer. December 15, 2020. [Major technology initiatives to increase Internet access to students in rural areas.](#)

¹⁴³³ Jamaica Observer. June 13, 2020. [Senate passes Data Protection Bill](#); Jamaica Observer. June 13, 2020. [Data Protection Bill passed amid calls for custodial sentences.](#)

¹⁴³⁴ Jamaica Information Service. June 13, 2020. [Data Protection Bill Passed in the Senate.](#)

¹⁴³⁵ Jamaica Gleaner. June 29, 2020. [Editorial | Data Protection Act threat to free press.](#)

¹⁴³⁶ Association of Caribbean Media Workers / Facebook. [August 3, 2020.](#)

921. **Attacks and aggression against journalists violate the right to freedom of expression in both its individual and collective dimension and cannot be tolerated in a democratic society.** The Office of the Special Rapporteur recalls that Principle 9 of the IACHR's Declaration of Principles on Freedom of Expression states: "[t]he murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the State to prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive due compensation."

922. **States have a positive obligation to provide the media with the greatest possible level of protection so they can do their work freely.** In this regard, the Inter-American Court has also found that "it is essential that the journalists [...] enjoy the necessary protection and independence to exercise their functions comprehensively, because it is they who keep society informed, and this is an indispensable requirement to enable society to enjoy full freedom."¹⁴³⁷ In the Resolution on Pandemic and Human Rights in the Americas, the IACHR underscored the importance of access to information during the public health emergency and the crucial role that journalists play by reporting on critical issues and monitoring the government's actions. States have an obligation to permit all media outlets access to official press conferences, without discrimination based on editorial stance, with the exception of necessary and proportionate measures to protect health.¹⁴³⁸

923. **Government authorities are called to maintain a discourse that favors public debate and freedom of expression.** The Office of the Special Rapporteur reiterates that public officials have a duty to ensure that their statements are not causing damage to the rights of those who contribute to the public debate through the expression and circulation of their thoughts, such as journalists, media outlets, and organizations for the defense of human rights, and must pay attention to the context in which they express themselves. According to the Inter-American Court of Human Rights, such statements from public officials may constitute an indirect restriction on the right to freedom of expression.¹⁴³⁹

924. **The inter-American human rights system explicitly prohibits prior censorship.** This prohibition arises from Article 13(2) of the American Convention on Human Rights and Principle 5 of the Declaration of Principles on Freedom of Expression, which establishes that, "Prior censorship, direct or indirect interference in or pressure exerted upon any expression, opinion or information transmitted through any means of oral, written, artistic, visual or electronic communication must be prohibited by law. Restrictions to the free circulation of ideas and opinions, as well as the arbitrary imposition of information and the imposition of obstacles to the free flow of information violate the right to freedom of expression."

925. **Access to the internet is a condition *sine qua non* for the effective exercise of human rights.** The IACHR and its Office of the Special Rapporteur have emphasized that, "In the current health emergency context generated by the Covid-19 pandemic, people's access to quality Internet acquires an inevitable central role. Based on the isolation and/or social distancing measures imposed by governments at a global level and their extension over time, Internet connection emerges as the predilect tool to continue with daily tasks that previously required in-person contact, in addition to being crucial for the exercise of civil, political, economic, and cultural rights."¹⁴⁴⁰ In this regard, the IACHR has emphasized that States must guarantee "that everyone has the broadest possible access to the Internet, and develop affirmative measures to close the digital divide facing vulnerable, lower-income groups quickly."¹⁴⁴¹

926. **Criminal law is the most restrictive and severe means of establishing responsibility for illegal conduct.** The Office of the Special Rapporteur recalls that Article 13(2) of the American Convention provides for the possibility of placing restrictions on freedom of thought and expression through the application of

¹⁴³⁷ I/A Court H. R. [Case Ivcher Bronstein v. Peru. Merits, Reparations and Costs](#). Judgment of February 6, 2001. Serie C No. 74, par. 147-150.

¹⁴³⁸ IACHR. Resolution No. 1/20. [Pandemic and Human Rights in the Americas](#). April 10, 2020.

¹⁴³⁹ I/A Court H. R. [Case Ríos et al v. Venezuela. Preliminary Objections, Merits, Reparations and Costs](#). Judgment of January 28, 2009. Serie C No.194. Par. 139.

¹⁴⁴⁰ IACHR. Office of the Special Rapporteur for Freedom of Expression. August 31, 2020. [Press release R206/20. States of the Region must Accelerate Universal Internet Access Policies during the COVID-19 Pandemic and Adopt Differentiated Measures to Incorporate Groups in Vulnerable Situations](#).

¹⁴⁴¹ IACHR. Resolution No. 1/20. [Pandemic and Human Rights in the Americas](#). April 10, 2020. Par. 31; IACHR. RIRCU Practical Guides to COVID-19 02. [How to ensure access to the Right to Education for Children and Adolescents during the COVID-19 Pandemic?](#)

subsequent liability for the abusive exercise of this right. In this regard, although violations of the Data Protection Act may be repudiated, this should preferably be done through the exercise of the right to rectification or reply, or, if the harm caused is serious, through proportional civil liability.

MEXICO

927. During 2020, lethal violence against journalists continues to be one of the main problems the union faces. The Office of the Special Rapporteur registered the murder of eight journalists for causes related to their work and is monitoring other homicides in which there could also be a relationship. To these serious figures are added the numerous attacks of different types that journalists and the media receive during when carrying out their work, ranging from threats, physical and digital attacks, temporary kidnappings, obstacles to journalistic work, and detentions. The Office of the Special Rapporteur has reiterated on several occasions that attacks against journalists persists, aggravated by the lack of legal consequences expressed in the impunity of these crimes. Although this Office also highlighted some progress in this matter -such as those registered in the crime against the journalist Lydia Cacho and the murders of Miroslava Breach and Javier Valdez- nevertheless, the Office of the Special Rapporteur has highlighted the delay in many of these decisions and even the subsequent reversal of small progress.

928. Along the same lines, the Office of the Special Rapporteur received worrying information about the uncertainty in which the Protection Mechanism for Human Rights Defenders and Journalists would be after the country's Congress approved the elimination of a series of public trusts in the country that financed different agencies and programs, including the Fund for the Protection of Human Rights Defenders and Journalists, and the Fund for Comprehensive Assistance, Attention, and Reparation to Victims. Different organizations have drawn attention to the lack of clarity on how these protection programs will continue to function. For the Office of the Special Rapporteur, this decision is worrying, especially in the context of the violence that journalists and other press workers continue to be victims of.

A. Prosecution

929. On January 15, Juan Sánchez Moreno, former commander of the Puebla State Attorney General's Office, received a conviction for the crime of torture against journalist Lydia Cacho, which occurred in 2005.

Sánchez Moreno was sentenced to five years and three months in prison, and to pay a fine of 12,133 Mexican pesos (approximately US\$644)¹⁴⁴². On December 16, 2005, Cacho was detained and tortured by the Puebla Police under the instruction of the then governor, Mario Marín, in complicity with businessman Kamel Nacif, in retaliation for the publication of the book *Los demonios del Eden*¹⁴⁴³. However, the Office of the Special Rapporteur finds it worrying that the case continues without major progress. For example, April 11, 2020 marked one year since the arrest warrant was issued against Moreno, Marín, Nacif, and Hugo Adolfo Karam, former director of the then Judicial Police of the state of Puebla. However, Marín, Nacif, and Karam are at large¹⁴⁴⁴. On December 3, new arrest warrants were issued against Nacif, Marín and Karam by the Judge of the First Unitary Court. The decision comes after the April 2019 orders were canceled in November of that same year after the Third Collegiate Circuit Court in Cancun confirmed an *amparo* granted by the Second Unit Court. With these orders, the country's Attorney General's Office would be in charge of executing the arrests¹⁴⁴⁵. On March 22, the Financial Intelligence Unit of the Ministry of Finance and Public Credit froze the accounts of Marín, Karam, and Nacif, as well as their companies and relatives¹⁴⁴⁶. However, in September two federal judges based in Puebla unfroze the accounts of former governor Marín and businessman Naci¹⁴⁴⁷. Likewise, the Office of the Special Rapporteur received with concern information that on June 15 the judicial police of the state of Puebla, María Irene Arteaga Rangel, who was implicated in the torture of Cacho, was released from prison. According to the available information, Arteaga Rangel had been detained since November 2019, but the Judge of the First Unitary Court of the Twenty-Seventh Circuit in Cancun, Quintana Roo, favorably resolved the appeal filed against the formal prison order issued by the Judge Second District of the State of Quintana Roo. According to the Judge, "the police cannot be criminally responsible for the crime of torture since they 'only' testified to said acts committed by third parties but did not directly commit them"¹⁴⁴⁸.

930. Heriberto Picos Barraza, alias 'El Koala', was sentenced to 14 years and eight months in prison on February 27 by a federal court in Culiacán, Sinaloa, after admitting to being one of those responsible for the murder of journalist Javier Valdez that occurred on May 15, 2017¹⁴⁴⁹. Picos Barraza had been captured as a suspect in the murder of Valdez on April 23, 2018 in Tijuana and later transferred to Culiacán¹⁴⁵⁰. The Special Prosecutor's Office for Crimes committed against Freedom of Expression (Feadle) had requested a minimum sentence of 22 years for Picos Barraza, but this was reduced by a third because he had accepted his participation during an abbreviated procedure of the trial¹⁴⁵¹. Although Juan Francisco Picos Barrueta, alias 'el Quillo', is in pre-trial detention accused of being the main perpetrator of the journalist's murder, his trial has not been carried out due to the pause of activities of the Federal Judicial Power as a health measure due to of the COVID-19 virus¹⁴⁵². Because the conviction of Picos Barraza was carried out in an abbreviated trial, he was not obligated to give more information about the crime that could help find with the intellectual authors or help in the trial against Picos Barrueta¹⁴⁵³.

931. On July 16, a Yucatán judge convicted one of the police officers accused of committing abuse of authority as well as of having provided false information against journalist Ricardo Neftalí Cárdenas Palomo,

¹⁴⁴² Proceso. January 16, 2020. [Dan cinco años de cárcel a implicado en tortura a Lydia Cacho en 2005](#); Article 19 México y Centroamérica. Twitter account (@article19mex). [June 15, 2020](#).

¹⁴⁴³ IACHR. [Annual Report 2019. Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter II. OEA/Ser.L/V/II. Doc. 5. February 24, 2020. Par. 846.

¹⁴⁴⁴ Artículo 19. April 11, 2020. [A un año de las órdenes de aprehensión: Mario Marín, Kamel Nacif y Adolfo Karam permanecen libres, y Lydia Cacho en el exilio](#).

¹⁴⁴⁵ Artículo 19. December 4, 2020. [Caso Lydia Cacho: De nueva cuenta se giran órdenes de aprehensión contra Marín, Nacif y Karam por delito de tortura](#); Animal Político. December 4, 2020. [Vuelven a girar órdenes de captura contra Kamel Nacif y Mario Marín por tortura contra Lydia Cacho](#).

¹⁴⁴⁶ Artículo 19. March 20, 2020. [Congelamiento de cuentas a los perpetradores de la tortura y detención de Lydia Cacho, es un paso para el acceso a la justicia](#).

¹⁴⁴⁷ Animal Político. September 22, 2020. [Jueces descongelan cuentas de Mario Marín y Kamel Nacif: autoridades interpondrán queja](#); Proceso. September 22, 2020. [Pese a estar prófugos, descongelan 800 mdp a Mario Marín y Kamel Nacif](#).

¹⁴⁴⁸ Artículo 19. June 16, 2020. [Magistrada libera a policía implicada en los hechos de tortura contra Lydia Cacho](#).

¹⁴⁴⁹ Ríodoce. February 27, 2020. [El 'Koala' admite asesinato de Javier Valdez: lo condenan a 14 años de prisión](#).

¹⁴⁵⁰ La Jornada Baja California. May 31, 2018. [Otorgan suspensión al 'Koala', presunto asesino de Valdez](#).

¹⁴⁵¹ Ríodoce. February 27, 2020. [El 'Koala' admite asesinato de Javier Valdez: lo condenan a 14 años de prisión](#).

¹⁴⁵² Noreste. May 15, 2020. [Aguardan castigo ejemplar por asesinato de Javier Valdez: 'dure lo que dure, no dejaremos de exigir justicia'](#).

¹⁴⁵³ Committee to Protect Journalists (CPJ). October 28, 2020. [Despite convictions, justice for murdered journalists in Mexico remains abstract](#).

also known as Félix Bigman. On October 26, the journalist was detained by José 'N' and other policemen for allegedly entering a public building without permission. However, José 'N' wrote false information in the report. That day, the journalist was distributing courtesy copies of the media *Tu espacio del sureste Kanasín*, where a report on alleged nepotism in the local government was published¹⁴⁵⁴.

932. The Office of the Special Rapporteur received with satisfaction information about the conviction against Juan Carlos Moreno Ochoa, alias 'El Larry', to 50 years in prison as he was considered a material co-author of the murder of journalist Miroslava Breach that occurred on March 23, 2017 in the state of Chihuahua. In the sentence of a federal court in Chihuahua of August 21, federal judge Néstor Pedraza Sotelo considered that Breach was murdered because of her work as a journalist, specifically her investigations into the activities of the criminal group Los Salazar, linked to the Sinaloa Cartel. The ruling also determined an intellectual author who is reportedly a drug trafficking leader with political ties¹⁴⁵⁵. On March 18, the court had already determined that Moreno Ochoa was criminally responsible for the journalist's murder. According to the information available, the judge determined that Moreno Ochoa "is fully responsible for the crime of qualified homicide, with premeditation, treachery, advantage, having left intimidating messages, and to the detriment of a journalist for her freedom of expression"¹⁴⁵⁶. However, the individual hearing for sentencing was rescheduled at least six times¹⁴⁵⁷. The Office of the Special Rapporteur finds it worrying that despite the fact that Moreno Ochoa was detained in December 2017, the order to open the case was made in December 2018, and the first oral judicial hearing was postponed several times due to *amparo* appeals filed by the defense¹⁴⁵⁸. The hearings were resumed in October 2019, but due to a further postponement the trial did not begin until February 17, 2020¹⁴⁵⁹. Despite the conviction, the Office of the Special Rapporteur also finds it worrying that other co-authors have not been tried, as well as the intellectual authors of the crime. Thus, for example, and according to available information, the judge determined that Moreno Ochoa would have received help from at least two other people: Jaciel Vega Villa, who is a fugitive, and Ramón Andrés Zavala Corral, who would have fired the eight shots that fatally wounded the journalist¹⁴⁶⁰. Zavala Corral was found dead in December 2017¹⁴⁶¹. Likewise, one of the alleged intellectual authors was mentioned during the trial against Moreno Ochoa¹⁴⁶². The Office of the Special Rapporteur also received information about the arrest of another person for his alleged participation in assisting the intellectual author and material authors in the Breach crime. According to available information, the Office of the Attorney General of the Republic through the Office of the Special Prosecutor for Human Rights (FEMDH) arrested Hugo Amed "S" on December 17. According to data from Feadle, the Unitary Circuit Court was able to establish that these people were in charge of searching for and delivering information to the organized crime group that ordered and carried out the murder¹⁴⁶³. Some media have identified the person as Hugo Shultz Alcaraz, former mayor of the Chínipas municipality, Chihuahua state. The crime was reportedly planned after the journalist published the report "Organized Crime is Imposed on Candidates for Mayor's Office in Chihuahua" that would report cases of candidates from the PRI and PAN parties allegedly supported by criminal groups. The article highlighted the case of the municipality of Chínipas, where the candidate was a nephew of the leader of Los Salazar¹⁴⁶⁴.

¹⁴⁵⁴ Artículo 19. July 24, 2020. [Sentencia a policía municipal por retención ilegal del periodista Félix Bigman en Yucatán.](#)

¹⁴⁵⁵ Propuesta Cívica. August 21, 2020. [50 años de prisión para Juan Carlos Moreno Ochoa "Larry" por su participación en el asesinato de la periodista Miroslava Breach Veldece;](#) BBC Mundo. August 23, 2020. [Miroslava Breach: la "emblemática" condena en México por el asesinato hace 3 años de la periodista "incómoda" que denunciaba los crímenes del narcotráfico;](#) Committee to Protect Journalists (CPJ). August 24, 2020. [CPJ welcomes sentence in Miroslava Breach murder case, urges further investigation.](#)

¹⁴⁵⁶ Fiscalía General de la República. March 18, 2020. Comunicado FGR 083/20. [FGR obtiene sentencia condenatoria por el delito de homicidio de una periodista;](#) Pie de Página. March 18, 2020. [Condenan a 'El Larry' por el asesinato de Miroslava Breach; defensa prepara apelación.](#)

¹⁴⁵⁷ El Tintero. June 21, 2020. [Posponen de nuevo audiencia contra asesino de Miroslava Breach;](#) El Diario. June 2, 2020. [Vuelven a cambiar fecha para audiencia contra 'El Larry';](#) El Diario de Chihuahua. April 19, 2020. [Hasta el 11 de mayo ratificarán sentencia vs "'El Larry"'](#).

¹⁴⁵⁸ La Jornada. November 19, 2019. [En diciembre, juicio contra único detenido por el asesinato de Miroslava Breach;](#) La Jornada. December 10, 2019. [Posponen otra vez juicio contra acusado en el asesinato de Miroslava Breach.](#)

¹⁴⁵⁹ Aristegui Noticias. March 18, 2020. [Declaran culpable a homicida de periodista Miroslava Breach.](#)

¹⁴⁶⁰ Pie de Página. March 18, 2020. [Condenan a 'El Larry' por el asesinato de Miroslava Breach; defensa prepara apelación.](#)

¹⁴⁶¹ El País. March 19, 2020. [Condenado en México uno de los asesinos de la periodista Miroslava Breach.](#)

¹⁴⁶² Committee to Protect Journalists (CPJ). August 24, 2020. [CPJ welcomes sentence in Miroslava Breach murder case, urges further investigation.](#)

¹⁴⁶³ Fiscalía General de la República. December 17, 2020. [Comunicado FGR 421/20. FGR cumplimenta orden de aprehensión relacionada al homicidio de una periodista en Chihuahua.](#)

¹⁴⁶⁴ Animal Político. December 17, 2020. [Detienen a exalcalde panista implicado en asesinato de Miroslava Breach;](#) La Jornada. December 17, 2020. [Detienen a panista Hugo Schultz, ligado a muerte de Miroslava Breach.](#)

933. The Attorney General of the State of Tabasco announced the arrest on December 8 of the chief of the ministerial police Uriel 'N' for his alleged responsibility in an act of extortion in the municipality of Huimanguillo¹⁴⁶⁵. The individual would be implicated in the murder of journalist Norma Sarabia Garduza, which also occurred in Huimanguillo in June 2019. Uriel 'N' could be the intellectual author of the crime against the journalist who was investigating extortion in which the aforementioned individual was reportedly implicate¹⁴⁶⁶. The journalist, a correspondent for the local newspaper *Tabasco Hoy*, was outside her home when hooded individuals aboard a motorcycle shot her repeatedly and fled the scene¹⁴⁶⁷.

B. Murders

934. The Office of the Special Rapporteur continues to record with concern the murder and disappearances of journalists and communicators when carrying out their work in the country. So far in 2020 at least eight journalists have been killed for exercising their journalistic work. Fidel Ávila Gómez, an announcer and radio manager in the state of Michoacán, was found dead along a highway near Guerrero state on January 7. Ávila Gómez, 46, was last seen on November 29, 2019 in Huetamo, Michoacán state, but was reported missing on December 2 of that same year.¹⁴⁶⁸ On April 8, a "cephalic limb" was found that was identified as corresponding to the journalist Víctor Fernando Álvarez Chávez and who had been reported missing on April 2 in the state of Guerrero. According to the information received, organized crime of the port of Acapulco had threatened Álvarez Chávez days before his disappearance¹⁴⁶⁹. Jorge Miguel Armenta Ávalos, CEO of the Medios Obson corporation, was killed in an armed attack in Ciudad Obregón, in the state of Sonora on May 16. Armenta Ávalos was under the Federal Protection Mechanism for Human Rights Defenders and Journalists. One of the policemen protecting him was killed in the attack and another was seriously injured.¹⁴⁷⁰

935. On March 30, journalist María Elena Ferral was shot and killed in Papantla, Veracruz state. According to the available information, Ferral, who was a correspondent for the *Diario de Xalapa* and director of the newspaper *Quinto Poder*, was attacked by unknown persons as the journalist went to her vehicle in the center of the municipality of Papantla. The journalist herself died hours after being operated on, in a hospital in the region due to injuries caused by the attack. Different organizations have denounced that Ferral had reported - on several occasions- death threats against her, which is why she filed a complaint in 2015, on that occasion the journalist would have mentioned that the threats would come from a politician in her area who always appeared escorted by armed men. Likewise, in 2016 the journalist alleged direct death threats during a meeting with the same political leader in a restaurant. The Mexican State reported that in 2018 the Protection Mechanism contacted Ferral to invite her to join it, but the journalist had not submitted the petition that the mechanism requires to assign protection measures to her. Both the Prosecutor's Office and the governor of Veracruz, Cuitláhuac García, reported that an investigation folder on the murder was opened to find those responsible for the fact as soon as possible. They also indicated that the State Government will provide all the attention to the Ferral family. Likewise, the State of Veracruz reported that it currently provides protection measures for the journalist's son and daughter.¹⁴⁷¹

¹⁴⁶⁵ Fiscalía General del Estado de Tabasco. December 8, 2020. [Sin tolerancia a actos de corrupción: Detiene FGE a elemento activo acusado de extorsión.](#)

¹⁴⁶⁶ La Jornada. December 9, 2020. [Jefe de policía, presunto implicado en asesinato de periodista en Tabasco](#); Ahora Noticias. December 8, 2020. [Detienen a presunto implicado del asesinato de la periodista Norma Sarabia.](#)

¹⁴⁶⁷ Animal Político. June 12, 2019. [Asesinan a balazos a la periodista Norma Sarabia en Huimanguillo, Tabasco](#); Artículo 19. June 18, 2019. [Asesinato de Norma Sarabia hace inminente que las autoridades frenen la impunidad en los crímenes contra periodistas.](#)

¹⁴⁶⁸ Comisión Nacional de los Derechos Humanos. January 8, 2020. [Condena CNDH homicidio del locutor y gerente de la estación de radio la "Ke Buena", en Huetamo, Michoacán](#); El Universal. January 8, 2020. [Matan a tiros a locutor y gerente de radio en Michoacán.](#)

¹⁴⁶⁹ Fiscalía General del Estado de Guerrero. April 11, 2020. [Fiscalía de Guerrero informa que fue localizada extremidad cefálica en Renacimiento: dictámenes forenses y periciales en genética señalan correspondencia con Víctor Fernando "N";](#) Reporters Without Borders (RSF). April 15, 2020. [Mexico. Execution-style murder of journalist in Guerrero](#)<https://rsf.org/es/noticias/mexico-asesinan-salvajemente-un-periodista-en-el-estado-de-guerrero>; Article 19 México y Centroamérica. Twitter account (@article19mex). [April 4, 2020, 6:21 p.m.](#)

¹⁴⁷⁰ Fiscalía General de Justicia del Estado de Sonora. Twitter account (@fgjesonora). [May 16, 2020, 6:25 p.m.](#); Reporters Without Borders (RSF). May 19, 2020. [Journalist receiving protection gunned down in northwestern Mexico](#); Knight Center for Journalism in the Americas. August 12, 2002. [Two journalists were killed while under state protection in Mexico in 2020. What does this reveal about the effectiveness of these security measures?](#)

¹⁴⁷¹ IACHR. Office of the Special Rapporteur for Freedom of Expression. April 3, 2020. [Press release R67/20. The Office of the Special Rapporteur condemns murder of journalist María Elena Ferral in Veracruz and expresses concern over persistence of violence against](#)

936. The Office of the Special Rapporteur learned that on May 24, Ferral's daughter, Fernanda de Luna Ferral, who is also a journalist and current director of *Quinto Poder*, was attacked by unidentified armed individuals in the town of Gutiérrez Zamora, Veracruz state. Since the murder of her mother, De Luna Ferral is part of a federal protection program, coordinated by the Protection Mechanism for Human Rights Defenders and Journalists, which depends on the Ministry of the Interior. According to the journalist, the State Commission for Attention to Victims of Veracruz had also assigned her police protection. The journalist's security repelled the attack.¹⁴⁷²

937. The Office of the Special Rapporteur also registered with concern the murder of journalist Pablo Morrugares Parraguirre, who was a beneficiary of the Mechanism for Human Rights Defenders and Journalists of the Ministry of the Interior in the state of Guerrero. The journalist's escort, who had been provided by this mechanism, also died in the attack. According to the information received, in the early hours of Sunday, August 2, Morrugares was in a restaurant in the city of Iguala accompanied by an officer attached to the Secretary of Public Security of the state of Guerrero who was acting as his security escort, when a group of armed men suddenly broke into the scene and shot both of them. In the previous hours, around midnight, the journalist had made a transmission on his Facebook page called "PM Noticias", in which he assured that the criminal group 'Los Tlacos', linked to the trafficking and sale of retail drugs, reportedly had "control" over the mayor of Huitzuco, José Luis Ávila López, "subjected", as well as taxi drivers and municipal police¹⁴⁷³. Also, journalist Anabel Hernández reported that Morrugares was a "key witness" in the case of the 43 disappeared students from Ayotzinapa because he was reporting on the day of the disappearance of these students in 2014. Precisely because of the coverage of that case, Morrugares would have received threats, which is why they had entered the Protection Mechanism in 2015¹⁴⁷⁴. The journalist had already suffered an attack in 2016 from which he escaped unharmed. Among the precautionary measures that were granted was that of having a security guard¹⁴⁷⁵. He was also relocated to several cities, but the journalist reportedly told the mechanism that he wanted to return to Iguala.¹⁴⁷⁶ The Guerrero State Attorney General's Office reported that it is investigating the murder of the journalist as well as the policeman who accompanied him, identified as Roberto Hernández. It also indicated that 55 R-15 rifle cartridges were recovered at the scene of the attack¹⁴⁷⁷. Subsequently, the Attorney General of the State of Guerrero announced the capture of eight people allegedly linked to the Morrugares murder. According to the authorities, at the place of capture, they found parts of a car that was allegedly used in the crime and that the individuals captured reportedly wanted to destroy.¹⁴⁷⁸

938. The Protection Mechanism for Human Rights Defenders and Journalists of the Ministry of the Interior informed the Office of the Special Rapporteur that it published a press release on August 2, 2020, condemning the murder of Pablo Morrugares Parraguirre and his bodyguard, and urged the authorities and the Guerrero State Prosecutor's Office for the prompt clarification of the case, as well as care and comprehensive support

[communicators in Mexico](#); Artículo 19. April 1, 2020. [Asesinan en Veracruz a la periodista María Elena Ferral](#); Diario de Xalapa. March 31, 2020. [Las amenazas llegaba de todos lados, dice hermano de la periodista asesinada](#).

¹⁴⁷² Committee to Protect Journalists (CPJ). May 26, 2020. [Gunmen attack daughter of murdered Mexican reporter Maria Elena Ferral in Veracruz](#)<https://cpj.org/es/2020/05/sujetos-armados-atacan-a-la-hija-de-la-periodista-mexicana-asesinada-maria-elena-ferral-en-veracruz/>; Reporters Without Borders (RSF). May 26, 2020. [Mexico. Shooting attack on murdered journalist's daughter in Veracruz state](#).

¹⁴⁷³ Proceso. August 2, 2020. [Asesinan a periodista en Iguala: había denunciado abusos del grupo "Los Tlacos"](#); Reporters Without Borders (RSF). August 3, 2020. [Journalist and bodyguard gunned down in southern Mexico](#).

¹⁴⁷⁴ DW. August 7, 2020. [Ayotzinapa, el asesinato de un testigo clave](#).

¹⁴⁷⁵ IACHR. Office of the Special Rapporteur for Freedom of Expression. April 3, 2020. [Press release R67/20. The Office of the Special Rapporteur condemns murder of journalist María Elena Ferral in Veracruz and expresses concern over persistence of violence against communicators in Mexico](#).

¹⁴⁷⁶ Knight Center for Journalism in the Americas. August 12, 2020. [Two journalists were killed while under state protection in Mexico in 2020. What does this reveal about the effectiveness of these security measures?](#)<https://latamjournalismreview.org/es/articles/dos-periodistas-fueron-asesinados-en-mexico-estando-bajo-proteccion-del-gobierno-en-2020-que-revela-esto-sobre-la-efectividad-de-estas-medidas-de-seguridad/>; Committee to Protect Journalists (CPJ). August 4, 2020. [Mexican journalist Pablo Morrugares killed in Iguala](#).

¹⁴⁷⁷ IACHR. Office of the Special Rapporteur for Freedom of Expression. August 5, 2020. [Press release R191/20. Office of the Special Rapporteur Condemns the Murder of Journalist Pablo Morrugares in Mexico and Expresses Concern regarding the Persistent Violence Against the Press](#).

¹⁴⁷⁸ Animal Político. August 8, 2020. [Detienen a 8 personas acusadas del asesinato del periodista Pablo Morrugares](#); La Jornada. August 7, 2020. [Detienen a 8 por presunto homicidio del periodista Pablo Morrugares](#).

to their family members. The State also reported that the Protection Mechanism maintains communication with the next of kin and will provide the corresponding support to the victims.¹⁴⁷⁹

939. Morrugares is the second journalist to benefit from the protection mechanism who was murdered in 2020. The first was Jorge Miguel Armenta Ávalos assassinated in the state of Sonora on May 16. The Office of the Special Rapporteur has recommended that the Mexican State continue to strengthen the Protection Mechanism for Human Rights Defenders and Journalists and ensure the effective application of its decisions and measures. It has also recommended providing the Special Prosecutor's Office for Attention to Crimes against Freedom of Expression (FEADLE) with more resources due to the magnitude of the problem of violence they face and that this prosecutor's office exercise with determination its power to investigate serious crimes against the press.

940. After the Morrugares murder, at least four other journalists have expressed fear for their life and the need to flee from Iguala. However, they would not have been able to leave the city because the Mechanism for the Protection of Human Rights Defenders and Journalists did not provide them with the assurance and that they and their families would receive the care they require.¹⁴⁸⁰

941. The Office of the Special Rapporteur received with concern information about the murder of journalist Julio Valdivia Rodríguez, 44, in the state of Veracruz. According to available information, on September 9, his beheaded body was found in a remote area of the municipality of Tezonapa, between the communities of Motzorongo and Paraíso, near the railroad tracks. The journalist covered news related to crimes and violence for the newspaper *El Mundo de Córdoba* and the day before the communicator had told a colleague that he would leave directly from his home to report on a news item in Tezonapa but did not give any further details¹⁴⁸¹. The State Commission for the Attention and Protection of Journalists (CEAPP) said in a statement that the communicator had not previously reported any assault or threat to his life or integrity, and that therefore he did not have special protection measures¹⁴⁸². The State Attorney General's Office announced that it opened an investigation file that "will begin by addressing the protocols related to his journalistic work as one of the possible lines to follow"¹⁴⁸³. According to available information, the experts of the Prosecutor's Office have ruled out an accident with the railroad and considered that someone tried to accommodate the body to make it look like an accident. Some colleagues have indicated that the journalist did receive threats because he was covering a very dangerous area in the border area between Veracruz and Oaxaca.¹⁴⁸⁴

942. Arturo Alba Medina, presenter of the newscast 'Telediario' on *Multimedios Televisión* and spokesman for the Technological Institute in Ciudad Juárez, was murdered on the night of October 29 in Ciudad Juárez, Chihuahua state, while driving his vehicle when leaving the studio. The journalist received at least 11 bullet wounds. According to available information, the 49-year-old journalist was finishing his shift in which he reported on alleged cases of corruption and crime within the Police,¹⁴⁸⁵ including the murder of a minor, allegedly by members of the public force¹⁴⁸⁶. The Office of the Attorney General of the State of Chihuahua reported that "elements of the Zona Norte Special Unit for the Investigation of Crimes Against Life are working in coordination with the Office of the Special Prosecutor for Human Rights through the Unit for the Protection of Journalists and Human Rights Defenders, to clarify this event" and that no line of investigation will be ruled out. They also pointed out that at least two people had participated in the crime¹⁴⁸⁷. The

¹⁴⁷⁹ IACHR. Office of the Special Rapporteur for Freedom of Expression. August 5, 2020. [Press release R191/20. Office of the Special Rapporteur Condemns the Murder of Journalist Pablo Morrugares in Mexico and Expresses Concern regarding the Persistent Violence Against the Press.](#)

¹⁴⁸⁰ La Jornada. August 7, 2020. [Temen por su seguridad cuatro periodistas en Iguala.](#)

¹⁴⁸¹ El Universal. September 9, 2020. [Decapitan al periodista Julio Valdivia en Veracruz](#); Animal Político. September 10, 2020. ["A Julio lo amenazaron, pero siguió porque era un apasionado": amigos del periodista asesinado en Veracruz](#); Artículo 19. September 11, 2020. [No basta la condena pública, autoridades deben investigar cabalmente el asesinato del periodista Julio Valdivia.](#)

¹⁴⁸² IACHR. Office of the Special Rapporteur for Freedom of Expression. September 21, 2020. [Press Release R225/20 Office of the Special Rapporteur condemns the murder of journalist Julio Valdivia in Mexico and reiterates concern on the persistence of attacks against the life and integrity of communicators.](#)

¹⁴⁸³ Fiscalía General del Estado de Veracruz / Facebook. September 9, 2020. [No habrá impunidad en homicidio de periodista Julio Valdivia.](#)

¹⁴⁸⁴ Animal Político. September 10, 2020. ["A Julio lo amenazaron, pero siguió porque era un apasionado": amigos del periodista asesinado en Veracruz](#); Committee to Protect Journalists. September 10, 2020. [Mexican reporter Julio Valdivia found beheaded in Veracruz state.](#)

¹⁴⁸⁵ El País. October 31, 2020. [Asesinado a balazos el periodista Arturo Alba Medina, conductor de un informativo en Ciudad Juárez](#); El Universal. October 30, 2020. [Asesinan en Ciudad Juárez a Arturo Alba Medina, periodista de Multimedios.](#)

¹⁴⁸⁶ La Verdad. October 30, 2020. [Disparan once balazos, matan al periodista Arturo Alba.](#)

¹⁴⁸⁷ Fiscalía General del Estado de Chihuahua. October 30, 2020. [Investiga FGE homicidio de periodista de Ciudad Juárez.](#)

country's National Human Rights Commission (CNDH) demanded that the authorities clarify the crime¹⁴⁸⁸. On November 13, the Chihuahua State Attorney General's Office reported the capture of two men allegedly responsible for committing the murder. The arrest took place on November 10, along with three other men who belonged to a cell of the criminal group 'Artistas Asesinos'. The state governor, Javier Corral, reported that due to his activity as a journalist a multidisciplinary team had been created to "determine if the attack was motivated by the exercise of the right to freedom of expression or to some other cause." However, the statements of the detainees would have led to the determination that the murder occurred because he had parked "circumstantially at the place of the attack and because his vehicle was mistaken," which is why the authorities ruled out that the crime was committed due to his journalistic work.¹⁴⁸⁹

943. On November 2, Jesús Alfonso Piñuelas was murdered in the city of Cajeme, Sonora state, while driving his motorcycle. The journalist had worked as a cameraman in different media, but also published on his social networks such as his Facebook page called *Zarathustra Prensa* (El Shock de la Noticia).¹⁴⁹⁰ His most recent posts would have to do with crime and insecurity.¹⁴⁹¹ The Sonora State Attorney General's Office reported on November 6 that it apprehended Francisco Bernardo "N.", 'El Foca', as responsible for the murder.¹⁴⁹² 'El Foca' opted for an abbreviated trial and received 25 years in prison¹⁴⁹³, however, the motive for the murder was not addressed.¹⁴⁹⁴

944. On November 4, relatives of journalist Víctor Manuel Jiménez Campos filed a complaint with the Prosecutor's Office for the disappearance of the communicator who was last seen on November 1 in the municipality of Celaya, Guanajuato state. Jiménez Campos is the creator of the *Digital Noticias* and *Rotativa Digital Guanajuato* pages¹⁴⁹⁵. According to the available information, until November 11, the Prosecutor's Office had not made the file public for his search and location.¹⁴⁹⁶

945. On November 9, journalist Israel Vázquez Rangel, a reporter for *El Salmantino*, was attacked with gunshots in the municipality of Salamanca, Guanajuato state, while he was doing journalistic coverage. The journalist had arrived at the scene to carry out the coverage, after he had been notified of the discovery of human remains, when he was attacked by armed people who fled the scene. Although he was transferred to a hospital, he died hours later as a result of his wounds.¹⁴⁹⁷ According to the organization Article 19, the portal has faced information blocking and smear campaigns during several municipal administrations, apparently due to its coverage of political and security issues. Salamanca is an industrial corridor that would be a space for dispute between drug cartels.¹⁴⁹⁸ Some of Vázquez Rangel's latest publications were about the apparent discovery of bodies in plastic bags in various parts of the city, apparently carried out by organized crime groups. He had also posted a video about executions in the city.¹⁴⁹⁹

946. Journalists and correspondents from Guanajuato symbolically closed the facilities of the State Attorney General's Office (FGE) and the Government Palace in the form of protest over the murder of Israel

¹⁴⁸⁸ Comisión Nacional de los Derechos Humanos. October 31, 2020. [CNDH exige al Gobierno del Estado de Chihuahua esclarecer el homicidio del periodista Arturo Alba Medina](#).

¹⁴⁸⁹ Fiscalía General del Estado de Chihuahua. November 13, 2020. [Capturan a los presuntos homicidas de un comunicador en Juárez](#); El Sol de México. November 13, 2020. [Detienen en Chihuahua a presuntos homicidas del periodista Arturo Alba](#). SinEmbargo. November 14, 2020. [Dos hombres son detenidos en Chihuahua por el asesinato del periodista Arturo Alba Medina](#).

¹⁴⁹⁰ Animal Político. November 4, 2020. [Asesinan al periodista Jesús Alfonso Piñuelas en Cajeme, Sonora: es el segundo en una semana](#); El Universal. November 3, 2020. [Asesinan a periodista Jesús Alfonso Piñuelas en Cajeme](#), Sonora; EFE. November 4, 2020. [Asesinan al periodista Jesús Piñuelas: el tercero en Sonora en lo que va del año](#).

¹⁴⁹¹ Committee to Protect Journalists (CPJ). November 9, 2020. [Mexican journalist Jesús Alfonso Piñuelas shot and killed in Sonora](#).

¹⁴⁹² Fiscalía General del Estado de Sonora. Página de Facebook. November 6, 2020. [Responde #FGJE de #Sonora a la exigencia de #Justicia. Detiene al presunto #Homicida de #Comunicador de #Cajeme](#).

¹⁴⁹³ El Sol de Hermosillo. November 8, 2020. [Sentencian a 25 años de cárcel a homicida de reportero en Cajeme](#); El Universal. November 8, 2020. [Sentencian a 25 años de prisión a homicida del periodista Alfonso Piñuelas](#).

¹⁴⁹⁴ Committee to Protect Journalists (CPJ). November 9, 2020. [Mexican journalist Jesús Alfonso Piñuelas shot and killed in Sonora](#).

¹⁴⁹⁵ La Silla Rota. November 11, 2020. [Desaparece reportero en Celaya: a 10 días de su búsqueda](#); Article 19 México y Centroamérica. Twitter account (@article19mex). [November 11, 2020; 12:07 p.m.](#)

¹⁴⁹⁶ El Universal. November 11, 2020. [Periodistas clausuran Fiscalía de Guanajuato por asesinato de reportero](#).

¹⁴⁹⁷ Animal Político. November 9, 2020. [Asesinan a balazos durante cobertura al periodista Israel Vázquez en Salamanca, Guanajuato](#); DW. November 9, 2020. [Asesinan al periodista Israel Vázquez mientras cubría noticia en el estado mexicano de Guanajuato](#).

¹⁴⁹⁸ Artículo 19. November 11, 2020. [Autoridades deben investigar asesinato de Israel Vázquez y abstenerse de revictimizarlo](#).

¹⁴⁹⁹ Committee to Protect Journalists (CPJ). November 10, 2020. [Reporter Israel Vázquez shot and killed: third Mexican journalist killed in 2 weeks](#) <https://cpj.org/es/2020/11/el-periodista-israel-vazquez-muere-tras-recibir-disparos-de-arma-de-fuego-se-trata-del-tercer-periodista-mexicano-que-muere-en-menos-de-dos-semanas/>.

Vázquez. They also demand to find alive journalist Víctor Manuel Jiménez Campos, who had disappeared since November 1.¹⁵⁰⁰ The Office of the Special Rapporteur received information on how the local authorities are re-victimizing the journalist. According to the information available, the mayor of Salamanca, Beatriz Hernández, said in front of the journalist's colleagues who were protesting in front of the Municipal Palace: "Going at that time, at 5:30 or 6 in the morning to cover a story in a place that we all know is so dangerous (...), you take a bigger risk".¹⁵⁰¹

947. For the Office of the Special Rapporteur, the levels of lethal violence against journalists in the country are extremely worrying, where in a period of 10 days three murders were registered in different states. This Office reiterates the call to the Mexican State to strengthen protection mechanisms as well as to implement all the measures within its reach to combat impunity. These homicides appear in a particularly worrying context due to the recent elimination of 109 public trusts in Mexico, including the Fund for the Protection of Human Rights Defenders and Journalists, which administered resources for the implementation and operation of "preventive measures, protection measures, and urgent protection measures". As the Office of the Special Rapporteur has stated, this measure adopted by the Mexican Congress diminishes the institutional capacity to protect journalists threatened for doing their work.

948. On December 9, Jaime Daniel Castaño Zacarías, director of the digital portal *Prensa Libre*, was murdered in Jerez, Zacatecas state. According to available information, at approximately 10 in the morning, the journalist was shot after taking photographs of two bodies abandoned on public roads. Castaño also worked in the department of Social Communication of the presidency of Jerez. On the day of the crime, Castaño left an event at City Hall after which he allegedly found the two bodies that he proceeded to photograph. As reported, two unknown individuals would have rebuked Castaño for having taken the images. The journalist allegedly refused to hand over his photographs, got on his motorcycle and left the crime scene. However, he was hit by the attackers who shot and killed him. The unknown individuals would have removed the memory from the camera¹⁵⁰². As of December 10, neither the Zacatecas Attorney General's Office nor the state's Secretary of Public Security had made a statement on the case.¹⁵⁰³ The city would have become a disputed territory between the Sinaloa and Jalisco Nueva Generación drug cartels. On the day of the murder and the days before, there were several shootings.¹⁵⁰⁴

949. This Office also registered the murder of other communicators where, in principle, it is not clear from the available information that the mobile is linked to journalistic work, although the lines of investigation remain open and a relationship with their profession could be determined. As the Office of the Rapporteur has repeatedly maintained, the authorities should not rule out the exercise of journalism as a motive for the murder and/or assault before the investigation is completed. Thus, for example, on June 10, the body of journalist Alma Angélica Aguilar was found in a motel in Ciudad Obregón. According to the information, the body of the journalist, who worked for the culture section of the *Diario de Yaquí*, was found in one of the rooms accompanied by that of a man. According to the Attorney General's Office of the State of Sonora, the two people died from carbon monoxide poisoning¹⁵⁰⁵. The following day, the murder of journalist José Luis Castillo Osuna, owner of the digital portal *Prioridad Máxima*, was reported. The journalist's body was found outside his home with stab wounds and several blows¹⁵⁰⁶. The Office of the Special Rapporteur also learned of the death of journalist Juan Nelcio Espinoza Menera, who was in police custody in Piedras Negras, Coahuila

¹⁵⁰⁰ El Universal. November 11, 2020. [Periodistas clausuran Fiscalía de Guanajuato por asesinato de reportero](#); POPLabMx. Facebook account. November 11, 2020. [#JusticiaParaIsrael #NoQueremosInformarConMiedo prensa de Guanajuato exigimos hablar con el fiscal Carlos Zamarripa](#).

¹⁵⁰¹ Artículo 19. November 11, 2020. [Autoridades deben investigar asesinato de Israel Vázquez y abstenerse de revictimizarlo](#); SinEmbargo. November 11, 2020. [VIDEO: La Alcaldesa de Salamanca señala a Israel Vázquez por ir a cubrir una nota a un lugar peligroso](#); El Sol de México. November 10, 2020. [Periodista asesinado tuvo la culpa por ir a un lugar peligroso: Alcaldesa de Salamanca](#).

¹⁵⁰² Zacatecas Online. December 10, 2020. [Asesinan a periodista en Jerez](#); El País. December 10, 2020. [Asesinado un fotoperiodista en Zacatecas tras cubrir el hallazgo de dos cuerpos](#); Artículo 19. December 12, 2020. [Asesinan a Jaime Castaño tras cobertura fotográfica en Jerez, Zacatecas](#).

¹⁵⁰³ La Jornada. December 10, 2020. [Sepultan a periodista asesinado, Jaime Castaño, en Zacatecas](#).

¹⁵⁰⁴ La Jornada. December 10, 2020. [Sepultan a periodista asesinado, Jaime Castaño, en Zacatecas](#); Proceso. December 10, 2020. [Arman balaceras y ejecutan a fotoperiodista en el Pueblo Mágico de Jerez](#).

¹⁵⁰⁵ La Silla Rota. June 10, 2020. [Hallan muerta a periodista en Cajeme, Sonora](#); Voces Feministas. June 11, 2020. [Sonora: Reportan presunta muerte por intoxicación de la periodista Alma Angélica Aguilar](#).

¹⁵⁰⁶ El Universal. June 11, 2020. [Asesinan al periodista José Castillo en Ciudad Obregón, Sonora](#); Zeta Tijuana. June 11, 2020. [Asesinan a periodista en Sonora: es la segunda muerte de un comunicador en 24 horas](#).

state, on August 21. According to available information, the journalist, who published on his Facebook page called *Valedor TV*, was circulating through the streets of the city together with his colleague Néstor Guerra to cover the violent events between the night of Thursday 20 and the early hours of 21 of August. On that journey, the communicators were allegedly detained. While in police custody, Espinoza Menera died in circumstances that are not clear¹⁵⁰⁷. According to a government statement, the police had set up several checkpoints in the cities after being shot at. At one of those checkpoints, they would have stopped the vehicle in which the communicators were travelling, who allegedly were in a state of drunkenness and who allegedly had verbally and physically assaulted the policemen at the scene. For this reason, they were reportedly detained to be transferred to the Prosecutor's Office. Along the way, Espinoza Menera reportedly had trouble breathing, so he was taken to a local hospital where the doctors reported that he had arrived at the scene without vital signs¹⁵⁰⁸. However, the journalist's family denies this version and demands a thorough investigation for what they consider to be a murder by excessive use of force. According to them, the journalist was arrested after covering a confrontation between police and criminals, a coverage that was recorded in a video broadcasted live through his media. The family added that the journalist's body allegedly bore marks of torture, information that was not given in the official version¹⁵⁰⁹. The other reporter who was also detained was later released.¹⁵¹⁰ The National Human Rights Commission announced that it would appeal the case of the journalist's death.¹⁵¹¹

C. Attacks, threats, and intimidation against journalists and the media.

950. Hostility towards the media and journalists increased in the context of the pandemic. The organization Article 19 registered 52 attacks against the press during the coverage of the pandemic between March 12 and May 16. Of these, 36 were committed by State agents.¹⁵¹²

951. During 2020, the Office of the Special Rapporteur registered several attacks on journalists during their journalistic practice, mostly by members of the country's security forces, and that on some occasions ended in the temporary arbitrary detention of press workers. According to available information, during the first half of the year in the country there had already been 96 threats (40 of them death threats), 91 cases of intimidation and harassment, 47 physical attacks, and 12 attacks on material property.¹⁵¹³

952. For example, on January 9, members of the Municipal Police of Chimalhuacán physically attacked journalists David Deolarte Salto of the newspaper *La Prensa* and Leonardo Sánchez Madrid of the newspaper *Metro*, the latter was also arbitrarily detained at the Municipal Command of Chimalhuacán, Mexico state.¹⁵¹⁴ On January 20, journalists Misael Torres, a *Minuto por Minuto* reporter; Iván Cortés, reporter for *Central Informativa*; and Ángel Calderón, a *Mini Noticias* reporter, were physically attacked by members of the Michoacán State Police. Cortés and Calderón were arbitrarily detained at the Municipal Command of Uruapan, Michoacán. The work equipment that had been confiscated during the detention were returned, except for Misael Torres' camera and cell phone.¹⁵¹⁵ During the coverage of a social mobilization on January 27, municipal police from Tapachula Chiapas arbitrarily attacked and detained Cinthia Alvarado, correspondent for the digital medium *Portal Revolución*. Alvarado had previously reported threats against her from public officials to the Chiapas Prosecutor's Office for Journalists. In that same event, Damián Sánchez, an independent reporter, and Alejandro Gómez, a reporter for the digital medium *Diario del Sur*, were also physically attacked.¹⁵¹⁶

¹⁵⁰⁷ La Jornada. August 23, 2020. [ONU-DH lamenta muerte del periodista Juan Nelcio Espinoza](#).

¹⁵⁰⁸ Aristegui Noticias. August 21, 2020. [Muere reportero luego de ser detenido en retén de la policía de Piedras Negras](#).

¹⁵⁰⁹ International Federation of Journalists (IFJ). August 25, 2020. [México: reclaman que investiguen la muerte de periodista detenido por la policía](#).

¹⁵¹⁰ Aristegui Noticias. August 21, 2020. [Muere reportero luego de ser detenido en retén de la policía de Piedras Negras](#).

¹⁵¹¹ Proceso. August 25, 2020. [CNDH atrae el caso del periodista Juan Nelcio Espinoza Menera](#).

¹⁵¹² These assaults included blocking or alteration of information (27.8%); intimidation and harassment (22.2%); deprivation of liberty (19.4%); illegitimate use of public power (16.7%), and physical attacks (13.9%). See Artículo 19. July 9, 2020. [Informe especial C.O.V.I.D.: Libertad de expresión e información durante pandemia de COVID-19 en México y CA](#). P. 91.

¹⁵¹³ Artículo 19. September 14, 2020. [Primer semestre de 2020: crecen exponencialmente las agresiones contra la prensa y continúan los asesinatos](#).

¹⁵¹⁴ Artículo 19. January 11, 2020. [Policías de Chimalhuacán detienen arbitrariamente y agreden a periodistas](#).

¹⁵¹⁵ Artículo 19. January 23, 2020. [Agresión y detención arbitraria de periodistas en Uruapan, Michoacán](#).

¹⁵¹⁶ Artículo 19. January 28, 2020. [Policía Municipal de Tapachula agrede físicamente y detiene arbitrariamente a periodistas](#).

953. This Office also received information about alleged harassment of the newspaper *El Diario* de Juárez by the governor of Chihuahua Javier Corral, through different actions ranging from threats of lawsuits to not answering their questions at press conferences. On January 9, the governor threatened to sue the newspaper after it published a series of articles in which it gave an account of real estate operations in Ciudad Juárez in which Corral allegedly acquired a property for its use without complying with legal requirements. Through lawyers based in El Paso and San Antonio (Texas, United States), the governor requested that the newspaper publish a note "to correct, clarify, or retract the information published or to comply with an eventual lawsuit for libel and defamation".¹⁵¹⁷ The text would establish that "if the newspaper does not comply with this request, my client is prepared to exercise his litigation rights, which could include –but will not be limited– to a lawsuit for slander and defamation." Likewise, on at least two occasions –on February 17 and 24– the governor has refused to answer questions from Lucy Sosa, a journalist for said medium. Sosa filed a discrimination complaint with the Chihuahua State Human Rights Commission.¹⁵¹⁸ Subsequently, the general director of *El Diario de Juárez*, Osvaldo Rodríguez Borunda, filed a lawsuit against the governor for alleged threats and acts of harassment, discrimination, and attacks on freedom of the press and the right to information before the Office of Parties of the District Courts of Ciudad Juárez.¹⁵¹⁹

954. Death threats to journalists, columnists, or other press workers continue to be a recurring practice in Mexico. On January 4, the general director of *Diario Alternativo*, Julián Chepe, received death threats via telephone from alleged members of the Jalisco Nueva Generación Cartel in Marquelia, Guerrero. Since 2017, 14 attacks against members of this medium have been documented. The media was incorporated into the Protection Mechanism for Human Rights Defenders and Journalists. However, according to available information, Chepe has not received the necessary protection¹⁵²⁰. The journalist, writer, and columnist Héctor de Mauleón received a threat on January 16 after writing a column about the singer Joan Sebastián¹⁵²¹. Ezequiel Flores, a correspondent for *Proceso* in the state of Guerrero, received a threat and was the victim of a smear campaign on March 28. This would have been retaliation for his coverage of the armed confrontations that had occurred in Chichihualco, head of the municipality of Leonardo Bravo, in Guerrero.¹⁵²² The journalist said that he had contacted the Protection Mechanism for Human Rights Defenders and Journalists to receive protection measures.¹⁵²³ During the coverage of a land conflict in the Agrarian Court of Oaxaca, members of 12 media outlets were threatened with sharp objects and beaten with tubes and belts. Two of them were forced to delete their recordings in which an attack on two older adults by the demonstrators was allegedly seen.¹⁵²⁴

955. Likewise, on March 11, Alina Navarrete Fernández, a contributor to the medium *Réplica*, Guerrero's digital newspaper, was the subject of a smear campaign and threats by academics from the Autonomous University of Guerrero, Guerrero state. The events were caused by the journalist's coverage of a feminist protest that took place at the Philosophy Faculty of the aforementioned university on March 4. In this event, students and former students reported alleged cases of sexual assault by students and teachers who were identified. A group of academics published through Facebook six letters addressed to the journalist and the medium in which, in addition to defending the accused, they demanded that they offer a public apology as well as give the names of the complainants and pointed out that they could start legal proceedings.¹⁵²⁵

956. The Office of the Special Rapporteur received worrying information about death threats with firearms and attacks by members of the Civil Force against journalists and protesters on February 11 in the municipality of Isla, Veracruz state. According to the information received, residents of the place were

¹⁵¹⁷ Artículo 19. March 2, 2020. [Gobernador de Chihuahua continúa hostigando a El Diario de Juárez](#); El Diario. January 9, 2020. [Amenaza Corral a El Diario desde EU](#).

¹⁵¹⁸ El Diario. January 9, 2020. [Amenaza Corral a El Diario desde EU](#); La Jornada. January 10, 2020. [Corral demanda en EU a la firma El Diario](#).

¹⁵¹⁹ Informador. March 5, 2020. [Demandan a Javier Corral por ataques a la libertad de prensa](#).

¹⁵²⁰ Artículo 19. January 6, 2020. [Amenazan a director del medio Diario Alternativo en Guerrero](#).

¹⁵²¹ Artículo 19. January 17, 2020. [ARTÍCULO 19 y PEN Internacional rechazan agresiones en contra del periodista y escritor Héctor de Mauleón](#).

¹⁵²² Artículo 19. March 30, 2020. [Amenazan a corresponsal de la revista Proceso, después de cubrir enfrentamientos armados en Guerrero](#); Committee to Protect Journalists (CPJ). April 16, 2020. [Mexican militia group threatens Proceso reporter Ezequiel Flores](#).

¹⁵²³ Committee to Protect Journalists (CPJ). April 16, 2020. [Mexican militia group threatens Proceso reporter Ezequiel Flores](#).

¹⁵²⁴ Artículo 19. February 20, 2020. [Integrantes de doce medios de comunicación son agredidos y amenazados en Oaxaca](#).

¹⁵²⁵ Artículo 19. March 12, 2020. [Integrantes de la Universidad Autónoma de Guerrero amenazan e inician campaña de desprestigio en contra de periodista que cubrió una protesta feminista](#).

protesting in front of the Federal Police facilities motivated by complaints of alleged police abuses, including rape. The protesters would have thrown sticks and stones at the facilities, but when the situation had calmed down and they spoke with the authorities, a Civil Force patrol would have arrived behind the protesters and opened fire on them and journalists who were reporting in the place. Journalists Julia Santín, Brígido López and Edna López received death threats with firearms. Reporter Alberto Carmona was beaten by members of the Civil Force and journalists Sergio Herrera and César Estrada were illegally deprived of their liberty. Twelve people were detained, and two policemen and five journalists were injured.¹⁵²⁶

957. Adrián Fernández Guerra, businessman and CEO of *Revista Perfil* in the state of Morelos, was rescued in an operation conducted by state and federal authorities on February 20 after being kidnapped by armed men the day before. Fernández Guerra was kidnapped from the Mexico Lindo bar around 8:30 p.m. on February 19 while celebrating his birthday.¹⁵²⁷

958. Cristian Pérez Ojeda, director of the newspaper *Sin Censura Noticias*, was detained, physically attacked, and threatened with death by unknown individuals in San José del Cabo, Baja California Sur, on February 29. According to available information, the journalist noticed that he was followed by hooded men, who forced him to get into a truck, took to a desolate place where he was interrogated and beaten, while he was threatened with a knife. The unknown persons allegedly demanded to know the editorial line of the media, asked him from whom he received money to speak ill of the local administration, and informed him that his family was being watched. The journalist would have managed to escape when the strangers were inattentive. Previously, on January 7, Pérez Ojeda reportedly received a threat through his cell phone.¹⁵²⁸

959. The newspaper *Reforma* released an audio of a call made on May 13 in which a man, who claims to be from an organized crime group, threatened to "blow up" the newsroom of this group if they did not stop criticizing the president of the country Andrés Manuel López Obrador.¹⁵²⁹

960. On May 27, unknown individuals set Marco Antonio Duarte Vargas's car on fire at his home in Ciudad Obregón, Sonora state. Duarte is the founder and director of the *Ciudad Obregón Sin Censura* news portal. The attack left no casualties.¹⁵³⁰

961. Two days after the murder of journalist Pablo Morrugares, armed men shot at the front of the newspaper *Diario de Iguala*, in the state of Guerrero, on August 4. At the time of the attack, there were no workers on site. In a statement, the newspaper reported that in 32 years of work they had never suffered an attack and that due to the economic situation it has had the need to print other newspapers, but it separated from the editorial line of those media.¹⁵³¹ As a protection measure, the *Diario de Iguala* and *El Diario de la Tarde*, which is also printed in that building, stopped transcribing messages between groups and only published video or photographs of the acts of violence. *El Diario de la Tarde* also stopped publishing its printed edition as a measure to protect its spokespersons. According to the information, in the last five years five spokesmen have been assassinated in retaliation for something published by the media.¹⁵³²

962. The Office of the Special Rapporteur received with concern information about a collective threat against journalists in the city of Iguala, Guerrero state, allegedly by drug traffickers. According to available information, a group of communicators sent a letter to the president, Andrés Manuel López Obrador, and to the governor of that state, Héctor Astudillo Flores, in which they demand guarantees to carry out their work. Communicators reported that on the night of October 5, several journalists received calls through the

¹⁵²⁶ Artículo 19. February 12, 2020. [Fuerza Civil abre fuego contra manifestantes y periodistas en Isla, Veracruz](#); El Universal. February 11, 2020. [Enfrentamiento entre manifestantes y policías deja 12 detenidos en Veracruz](#).

¹⁵²⁷ Animal Político. February 20, 2020. [Rescatan al periodista Adrián Fernández tras ser secuestrado en Morelos; hay 10 detenidos](#); Sin embargo. February 20, 2020. [Comando ingresa a bar de Cuernavaca, Morelos, y plagia a comunicador: reportan un muerto](#).

¹⁵²⁸ Artículo 19. March 5, 2020. [Periodista crítico del ayuntamiento de Los Cabos es privado de la libertad y golpeado](#).

¹⁵²⁹ Knight Center for Journalism in the Americas. May 15, 2020. [Mexican newspaper Reforma threatened for coverage of president and his management of COVID-19](#)<https://latamjournalismreview.org/es/articles/diario-mexicano-reforma-amenazado-por-cobertura-de-amlo-y-su-manejo-del-covid-19/>; Committee to Protect Journalists (CPJ). May 18, 2020. [Mexican newspaper Reforma receives bomb threat over López Obrador coverage](#); Gobierno de México. May 14, 2020. [El Mecanismo para la Protección de personas Defensoras de Derechos Humanos y Periodistas de la Secretaría de Gobernación](#).

¹⁵³⁰ Committee to Protect Journalists (CPJ). May 29, 2020. [Mexican reporter's car firebombed in Sonora state](#).

¹⁵³¹ El Universal. August 4, 2020. [Atacan oficinas del periódico Diario de Iguala](#); Animal Político. August 4, 2020. [Atacan instalaciones del Diario de Iguala, a dos días del asesinato del periodista Pablo Morrugares](#).

¹⁵³² Animal Político. October 15, 2020. [Periodistas de Iguala, Guerrero, piden protección; grupo criminal amenaza con asesinarlos](#).

WhatsApp application from people who had identified themselves as members of a criminal group. The calls would have been made hours after several journalists had covered a protest at the Regional Prosecutor's Office. The journalists' complaint also indicates that these people had told them that a member of the union would be assassinated, as happened with Pablo Morrugares, whose crime took place on August 2. They would also have sent them photographs to indicate that they had already been "located." They said, out of fear after the threat, journalists from the city stopped covering a 'March for peace' that had been organized by citizens and transporters for October 7¹⁵³³. According to available information, violence in the state would have increased due to the division of the criminal group known as Guerreros Unidos when one of its leaders was assassinated. The sides would be upset with the reporters for publishing information about the violence between them.¹⁵³⁴

963. A group of reporters from Guerrero protested in Chilpancingo, the state capital, to demand the safety of the approximately 150 journalists who work in Iguala. On October 14, authorities and representatives of the Federal Protection Mechanism for Defenders and Journalists met to define actions such as reinforcing security in the area, as well as locating journalists who are under the Protection Mechanism. They also agreed to meet with the authorities to "establish a joint route of intervention not only with individual cases but for the entire union," and offer a protection course.¹⁵³⁵

964. The Office of the Special Rapporteur received information on alleged cases of workplace harassment within the public media Agencia de Noticias del Estado Mexicano (Notimex). The directors of the media have also been accused of leading smear campaigns against workers and former workers through social networks. One of the reported cases warns of a journalist who was temporarily detained, and her cell phone was illegally confiscated. According to the available information, on February 21 the Notimex Single Union of Workers began a strike for lack of agreements with the director Sanjuana Martínez and violation of the Collective Bargaining Agreement. According to their demands, in 11 months there had been at least 241 dismissals that would lead the media to face 85 labor lawsuits. In its response, the entity reportedly said that "a small group of former employees of the Mexican State News Agency (Notimex) tried to start a strike without any success".¹⁵³⁶ On May 12, the Federal Board of Conciliation and Arbitration (JFCA) ordered Notimex to suspend work and considered that the agency "violated the right to strike" by maintaining its activities even after the strike was declared legal on March 4 by the labor authorities. The JFCA determined if they did not to stop work, the agency could receive a fine greater than 400 thousand Mexican pesos.¹⁵³⁷ That same day, *Aristegui Noticias*, *Signa_Lab* of the Instituto Tecnológico y de Estudios Superiores de Occidente (ITESO), and the organization Article 19 published an investigation that would account for an alleged series of attacks on social networks through false accounts that would be coordinated by the directive of the agency against various journalists and critics of Notimex. The information would have been offered by former employees of the agency and two employees of Notimex at that time. A complaint rejected by agency directives¹⁵³⁸. Later, more complaints of this type would have been filed.¹⁵³⁹ Notimex announced that as of June 9 it would suspend activities after being so agreed by the Governing Board in compliance with a requirement of the labor authority for the strike of its workers that began last February. The creation of a Technical Committee was also announced to establish a dialogue table with the union that started the strike¹⁵⁴⁰. On August 21, six months after the strike began, workers belonging to the Single Union of Notimex Workers (SutNotimex) symbolically closed the alternate headquarters of the agency where some officials

¹⁵³³ La Jornada. October 13, 2020. [Periodistas de Iguala denuncian amenaza de muerte de grupos criminales](#); Reporters Without Borders (RSF). Twitter account (@RSF_esp). October 14, 2020; 4:54 p.m..

¹⁵³⁴ Animal Político. October 15, 2020. [Periodistas de Iguala, Guerrero, piden protección: grupo criminal amenaza con asesinarlos](#).

¹⁵³⁵ Gobierno de México. Mecanismo de Protección para Personas Defensoras de Derechos Humanos y Periodistas. October 17, 2020. [Establece Mecanismo de Protección a Personas Defensoras de Derechos Humanos y Periodistas y el gobierno de Guerrero protocolo en Iguala](#); Animal Político. October 15, 2020. [Periodistas de Iguala, Guerrero, piden protección: grupo criminal amenaza con asesinarlos](#); Eje Central. October 16, 2020. [Activan protocolo para protección de periodistas en Iguala](#).

¹⁵³⁶ Aristegui Noticias. February 21, 2020. [Estalla huelga de trabajadores en Notimex: la agencia considera que ésta es un "fracaso"](#).

¹⁵³⁷ Aristegui Noticias. May 13, 2020. [Ordenan a Notimex suspender labores 83 días después de iniciada la huelga; es 'acuerdo viciado', dice la agencia](#).

¹⁵³⁸ Artículo 19. May 12, 2020. [Directiva de Notimex ataca periodistas y organiza campañas de desprestigio en redes sociales](#); Aristegui Noticias. May 13, 2020. [Ordenan a Notimex suspender labores 83 días después de iniciada la huelga; es 'acuerdo viciado', dice la agencia](#).

¹⁵³⁹ Artículo 19. June 18, 2020. [La "guerra está en Twitter": evidencia confirma tácticas de la dirección de Notimex para atacar periodistas](#).

¹⁵⁴⁰ DW. June 8, 2020. [Notimex suspende servicio por huelga de trabajadores](#); Sanjuana Martínez Montemayor. Twitter account (@SanjuanaNotimex). [June 8, 2020; 7:01 p.m.](#); Forbes México. June 8, 2020. [Notimex suspenderá actividades por huelga](#).

would be working despite the strike and despite having announced the cease of operations. They demanded a dialogue with the directives who reportedly walked away from the dialogue table.¹⁵⁴¹ On October 6, a video of Notimex workers allegedly forced to work by the directives despite the strike at the agency's alternate headquarters circulated on social networks. They also reported that journalists do not have biosafety measures such as social distancing established by the Ministry of Health. Notimex managers reportedly retaliated against some workers who they reportedly dismissed. On October 9, journalist Ingrid Sánchez was summoned by agency officials, including Sanjuana Martínez, to a meeting. The journalist was asked to leave her cell phone outside the office and once inside she was accused of being the one who recorded the images of the journalists working despite the strike. For more than an hour they did not let her leave the place and when she was about to leave, her cell phone was not where she had left it. Given the refusal of Agustín Lozano, editorial director of the medium, to return it, a colleague called 911. The Police reportedly demanded to return the cellphone, or they would be charged with the crime of robbery. The directives would have wanted to force the journalist to sign an administrative act with a minimum penalty of "working 6 days without pay." Sánchez would have refused to sign it and moments later all the people were forced to vacate the facilities.¹⁵⁴² Subsequently, on October 12 and 13, through the Twitter accounts of the executive director and the director of the Independent Union of Notimex Workers, Luis Monroy, a smear campaign began against the journalist Ingrid Sánchez.¹⁵⁴³

965. On the night of November 14, the photojournalist Carlos Zaráin, of the *Noroeste* newspaper, was kidnapped in the city of Mazatlán, Sinaloa state. The journalist was taken from his house by two heavily armed men, who also took two other people. On Sunday, November 15, a group of journalists protested demanding his release¹⁵⁴⁴. On the same night of Sunday, November 15, and in an apparent response to pressure, the photojournalist was released. Along with him, one of the kidnapped people was released, while the Prosecutor's Office continued in search of the third person¹⁵⁴⁵.

D. Arbitrary detentions

966. On February 11, Jorge Contreras Sánchez, a reporter for the newspaper *Continuamos.MX*, was the victim of arbitrary detention by municipal police from Cuautitlán Izcalli, State of Mexico. The journalist was documenting an alleged extortion by the police to the driver of a trailer. According to the information received, they first accused him of "usurpation of functions", but when he was brought before a judge, the police accused him of "disturbing order" by carrying out his journalistic work. They told the judge that although he did not affect the work of the police, "he was gossiping." The judge released him with a "verbal reprimand".¹⁵⁴⁶

E. Stigmatizing statements

967. The Office of the Special Rapporteur learned of a series of stigmatizing statements on the part of President Andrés Manuel López Obrador as well as other public officials against the media and civil society organizations that had published critical information or had shown themselves against the mega project led by the President known as the Maya Train.¹⁵⁴⁷

¹⁵⁴¹ CDMX Magacín. August 21, 2020. [Trabajadores de Notimex piden solución a huelga que cumple seis meses](#); La Izquierda Diario. August 21, 2020. [A 6 meses de Huelga: cierran simbólicamente sede ilegal de Notimex](#); W Radio. August 17, 2020. [Cumple huelga en Notimex seis meses en medio de lluvias y pandemia](#).

¹⁵⁴² Proceso. October 9, 2020. [Trabajadora de Notimex evidencia violación a la huelga, la hostigan y le retienen celular personal](#); Aristegui Noticias. October 9, 2020. [Notimex despide a trabajadores por denuncia sobre reanudación de labores a pesar de huelga: sindicato](#); Artículo 19. October 15, 2020. [Directivas de NOTIMEX privan de la libertad y confiscan celular de periodista](#); Revista Común. October 16, 2020. [Empantanamiento en la Notimex de Sanjuana Martínez](#).

¹⁵⁴³ Artículo 19. October 15, 2020. [Directivas de NOTIMEX privan de la libertad y confiscan celular de periodista](#).

¹⁵⁴⁴ Noroeste. November 15, 2020. [Realizan manifestación para exigir liberación de fotoperiodista Carlos Zaráin de Noroeste](#); Proceso. November 15, 2020. [Secuestran al fotoperiodista Carlos Zaráin en Mazatlán](#); DW. November 16, 2020. [México: secuestran a fotoperiodista en Sinaloa](#).

¹⁵⁴⁵ Noreste. November 15, 2020. [Aparece a salvo, fotoperiodista de Noroeste](#); Pie de Página. November 15, 2020. [Aparece a salvo fotoperiodista de Noroeste](#); EFE. November 16, 2020. [Liberan a fotoperiodista mexicano secuestrado por un grupo armado en Sinaloa](#).

¹⁵⁴⁶ Artículo 19. February 14, 2020. [Policías de Cuautitlán Izcalli detienen arbitrariamente a reportero por documentar actos de extorsión](#).

¹⁵⁴⁷ Archive of the Office of the Special Rapporteur for Freedom of Expression. COMUNICACIÓN URGENTE SOBRE RECIENTES ATAQUES A ORGANIZACIONES DE SOCIEDAD CIVIL EN MÉXICO. E-mail sent to the Special Rapporteur on September 11, 2020; Archive of the Office of the Special Rapporteur for Freedom of Expression. El Estado mexicano estigmatiza y criminaliza la labor de personas defensoras de derechos humanos y periodistas. E-mail sent to the Special Rapporteur on September 17, 2020.

968. Thus, for example, in his morning press conference on April 2, the president would have criticized a tweet by columnist Denise Dresser and compared her to a scavenger animal, for reportedly demanding from the Undersecretary of Health to know the reality and magnitude of the pandemic¹⁵⁴⁸. Just after President Andrés Manuel López Obrador declared that the country had entered phase 3 of the pandemic, in his April 22 conference the president would have dedicated at least 20 minutes of it to criticize the press that had been critical of the management of the pandemic¹⁵⁴⁹. A similar situation would have occurred at the July 24 conference when journalist Carlos Loret de Mora was criticized for about 20 minutes. During the conference, two columns by the journalist were almost entirely read and videos of interviews made by the reporter in the past were presented¹⁵⁵⁰.

969. On August 28, in a morning press conference, the spokesman for the Presidency, Jesús Ramírez Cuevas, accused a media outlet and eight civil society organizations¹⁵⁵¹ of receiving funding from foreign foundations for the purpose of criticizing and opposing the Maya Train project¹⁵⁵². This project, which is presented as the great work of President Andrés Manuel López Obrador, seeks to connect the main archaeological centers of Mayan culture in the southeastern states of the country. The project announced in November 2018 would cost between US\$6,000 millions and US\$8,000 millions¹⁵⁵³. The Office of the United Nations High Commissioner for Human Rights in Mexico has indicated that the indigenous consultation process for the project has not complied with international human rights standards¹⁵⁵⁴. According to *Animal Político*, the media mentioned in the morning conference, Ramírez Cuevas called the Ford, Kellogg, NED, Rockefeller, and Climate Works Foundations “Benefactors and Opponents”. Of *Animal Político*, the spokesman for the Presidency reportedly said that they had received US\$213,751 from the Kellogg Foundation and US\$490,000 from the Ford Foundation as part of the opposition to the Mayan Train. With documents published on its site, *Animal Político* denied this claim and added the Agreement made with the Kellogg Foundation aimed at a project carried out between October 2017 and November 2018, “before the administration” of the current president began. According to them, that money was used to create content in a section called Mexico Desigual and to make visible the problem of racism and inequality in the country. Likewise, *Animal Político* said that the resources of the Ford Foundation correspond to the years 2016-2020. The agreement with that foundation established workshops and training for journalists in different states of the country, some of this was carried out in 2017. They also pointed out that with that money they made a Journalistic Methodology and Investigation Manual disseminated among journalists and students. They stated that they are currently receiving a grant to investigate issues of impunity, corruption, and continue research work on inequality and climate change. According to *Animal Político*, the Presidency spokesman said that this information was based on a private investigation that the administration took as a starting point to carry out its own investigation. However, the outlet assured that they had never been consulted.¹⁵⁵⁵

970. Information on the financing of the media and organizations would have begun to circulate in a regional newspaper and later in one with national coverage. However, civil society organizations have indicated that the data on this money is public information because it is declared before the country's tax

¹⁵⁴⁸ Artículo 19. July 9, 2020. [Informe especial C.O.V.I.D: Libertad de expresión e información durante pandemia de COVID-19 en México y CA.](#) P. 94.

¹⁵⁴⁹ Expansión. April 22, 2020. [En el inicio de la fase más crítica del COVID-19, AMLO se lanza contra la prensa.](#)

¹⁵⁵⁰ The Washington Post. July 26, 2020. [AMLO aumenta su autoritarismo contra la prensa.](#)

¹⁵⁵¹ The organizations and the media outlet involved are: Consejo Regional Indígena y Popular de Xpujil (CRIPX), Diálogo y Movimiento (DIMO), Indignación, Promoción y Defensa de los Derechos Humanos, Consejo Civil Mexicano para la Silvicultura Sostenible (CCMSS), Centro Mexicano de Derecho Ambiental (CEMDA), Mexicanos Contra la Corrupción y la Impunidad (MCCI), México Evalúa, Fundación para el Debido Proceso (DPLF) and the outlet Animal Político.

¹⁵⁵² Animal Político. August 28, 2020. [Gobierno de AMLO acusa a Animal Político y a OSC de recibir recursos para atacar al Tren Maya;](#) Archive of the Office of the Special Rapporteur for Freedom of Expression. COMUNICACIÓN URGENTE SOBRE RECIENTES ATAQUES A ORGANIZACIONES DE SOCIEDAD CIVIL EN MÉXICO. E-mail sent to the Special Rapporteur on September 11, 2020; Archive of the Office of the Special Rapporteur for Freedom of Expression. El Estado mexicano estigmatiza y criminaliza la labor de personas defensoras de derechos humanos y periodistas. E-mail sent to the Special Rapporteur on September 17, 2020

¹⁵⁵³ BBC Mundo. November 15, 2018. [Tren Maya: así es el ambicioso proyecto que propone AMLO y tiene un costo de miles de millones de dólares para México.](#)

¹⁵⁵⁴ UN. Office of the High Commissioner for Human Rights Mexico. December 19, 2019. [ONU-DH: el proceso de consulta indígena sobre el Tren Maya no ha cumplido con todos los estándares internacionales de derechos humanos en la materia.](#)

¹⁵⁵⁵ Animal Político. August 28, 2020. [Gobierno de AMLO acusa a Animal Político y a OSC de recibir recursos para atacar al Tren Maya.](#)

authorities.¹⁵⁵⁶ The organizations published a statement rejecting this stigmatizing campaign.¹⁵⁵⁷ The president reportedly continued with this type of statements on foreign financing on September 1 and 3.¹⁵⁵⁸

971. The Office of the Special Rapporteur received information on the use that President López Obrador would make of some of his morning press conferences to single out media, journalists, and columnists who in his perception would be critical of his administration. On April 22, he allegedly criticized the newspapers *El Universal* and *Reforma* for publishing only bad news from the government. He also mentioned journalists who allegedly "defend" him. He would also have criticized media such as *Milenio* and journalists such as Carlos Marín, Pascal Beltrán del Río (*Excelsior*), and Ciro Gómez Leyva (*Radio Fórmula*)¹⁵⁵⁹. In August, the former CEO of *Petróleos Mexicanos* (Pemex), Emilio Loyola Austin, during his statement before the Attorney General's Office, singled out the journalist Lourdes Mendoza on behaviors that do not have a judicial conclusion. The columnist denied the claim through her social networks, which she described as "absolutely false", and called on Emilio Loyola Austin to provide evidence of his statements. "My columns speak for me, for my daughter, my work, and my dignity. I'm going to defend myself to the last consequences (...)", the journalist asserted.¹⁵⁶⁰ Subsequently, both the president and various public officials and representatives of Congress made stigmatizing remarks against the journalist aimed at discrediting her work, in which she has criticized the authorities. "I don't know if the bad faith [of Lourdes Mendoza] is natural or well paid"¹⁵⁶¹, "your so-called work is increasingly irresponsible and pathetic,"¹⁵⁶² "it turns out that those of the old regime gave bags of five thousand dollars to Lourdes Mendoza, alias Lady Chanel, to write columns applauding structural reforms. Now we understand"¹⁵⁶³ were some of the comments of political representatives on social networks. The stigmatization from the highest-ranking authorities of the State has added to a very violent environment against him, mainly on social networks. On September 2, they allegedly signaled out the journalist Carlos Loret de Mola whom he asked to clarify who finances his program. The journalist had made a parody with a comedian where he criticizes the situation in the country and the López Obrador administration. The journalist also revealed recordings of the president's brother allegedly receiving illegal campaign contributions for *Morena*.¹⁵⁶⁴ On September 8, the president showed figures of how much money the *Nexos* and *Letras Libres* magazines and *Editorial Clío* received from official advertising in previous governments. The president pointed out that because they do not receive this publicity, the intellectuals who run the magazines "are angry." The president would not have explained that they were legal contracts.¹⁵⁶⁵ Days later, the president would have criticized the newspaper *Reforma* again, which he would have called "filthy newsletter". The president's annoyance would be for having published alleged cases of corruption in the state of Tabasco that would benefit his family¹⁵⁶⁶. Also, on the morning of September 25, the president would have analyzed 148 articles to determine who wrote in a positive, neutral, or negative way¹⁵⁶⁷. On October 15, during his morning conference, President López Obrador would have used at least 10 minutes of it to present a list of media that he considers "critical" of his administration. According to available information, the president would have shown a count of articles written during the first two years of the previous governments (Felipe Calderón and Enrique Peña Nieto) and his own. Based on that information, he would

¹⁵⁵⁶ Archive of the Office of the Special Rapporteur for Freedom of Expression. COMUNICACIÓN URGENTE SOBRE RECIENTES ATAQUES A ORGANIZACIONES DE SOCIEDAD CIVIL EN MÉXICO. E-mail sent to the Special Rapporteur on September 11, 2020.

¹⁵⁵⁷ Espacio OSC. (n.d.). [El Gobierno de México debe abstenerse de estigmatizar la labor de personas defensoras de derechos humanos y periodistas.](#)

¹⁵⁵⁸ Archive of the Office of the Special Rapporteur for Freedom of Expression. COMUNICACIÓN URGENTE SOBRE RECIENTES ATAQUES A ORGANIZACIONES DE SOCIEDAD CIVIL EN MÉXICO. E-mail sent to the Special Rapporteur on September 11, 2020.

¹⁵⁵⁹ Animal Político. April 22, 2020. [Nunca la prensa le había pegado tanto a un gobierno: AMLO dice que no hay periodismo independiente.](#)

¹⁵⁶⁰ Twitter account of Lourdes Mendoza (@lumendoz). [August 19, 2020.](#)

¹⁵⁶¹ Twitter account of Fernandez Noroña (@fernandeznoroña). [June 16, 2020.](#)

¹⁵⁶² Twitter account of Fernandez Noroña (@fernandeznoroña). [June 16, 2020.](#)

¹⁵⁶³ Twitter account of Dorheny Cayetano (@DorhenyCayetano). [August 19, 2020.](#)

¹⁵⁶³ Washington Post. September 15, 2020. [AMLO alimenta un clima de intolerancia e intimidación contra la prensa.](#)

¹⁵⁶⁴ Washington Post. September 15, 2020. [AMLO alimenta un clima de intolerancia e intimidación contra la prensa.](#) El Universal. YouTube account. September 4, 2020. ["¿Quién pompó?"; pregunta AMLO a "Brozo" y Loret de Mola.](#)

¹⁵⁶⁵ Proceso. September 8, 2020. [López Obrador exhibe cuánto recibían Nexos y Letras Libres por publicidad;](#) Aristegui Noticias. September 8, 2020. [Exhibe Presidencia gasto en publicidad oficial para Nexos, Letras Libres y Editorial Clío, durante 12 años;](#) Washington Post. September 15, 2020. [AMLO alimenta un clima de intolerancia e intimidación contra la prensa.](#)

¹⁵⁶⁶ Washington Post. September 15, 2020. [AMLO alimenta un clima de intolerancia e intimidación contra la prensa;](#) Grupo Reforma. YouTube account. September 11, 2020. [REFORMA es un pasajero inmundo.-AMLO.](#)

¹⁵⁶⁷ Bunker Político. September 25, 2020. [Tras arremeter vs columnistas, AMLO dice que "hay libertad de expresión".](#)

have said that he is "the most attacked president by the media since [Francisco] Madero." He would also have shown a table of publications made by 60 columnists about his government.¹⁵⁶⁸

972. On October 22, the organizations Article 19, Regional Office for Mexico and Central America, Reporters Without Borders (RSF) and the Committee to Protect Journalists (CPJ) signed an open letter to President López Obrador asking him to "comply with his commitment not to stigmatize journalistic work". In the letter, the organizations highlighted the level of insecurity in the country to carry out the work and reported that they have documented "cases of media and journalists who, as a result of stigmatizing speeches, suffered death threats, harassment, and intimidation. We are also referring to those cases where different journalists who have questioned you during the morning conferences of your government have immediately been attacked on social networks and even threatened"¹⁵⁶⁹.

F. Impunity

973. The Office of the Special Rapporteur has documented with concern the high levels of impunity in crimes against journalists, and the limited progress made by the State in eradicating this problem. Impunity for murders and other attacks against journalists has been documented by government institutions and civil society organizations, and these data suggest that at least 99.6% of these crimes have not yet been clarified. According to figures from Article 19, from the year 2000 to November 3, 2020, 135 journalists have been murdered in the country because of their journalistic work. In the cases there would be 99.13% impunity rate.¹⁵⁷⁰ In three years of existence, the Special Prosecutor's Office for Crimes Committed against Freedom of Expression (Feadle) has obtained 18 convictions in crimes against journalists, including those in the cases of Miroslava Breach and Javier Valdez. There would also be 80 people subject to trial and dozens more investigated.¹⁵⁷¹ 2020 marks the fifth anniversary of some emblematic crimes such as that of Moisés Sánchez, who was taken from his home and later murdered in January 2015 in the municipality of Medellín de Bravo, Veracruz state. The Feadle investigation "remains without substantial progress".¹⁵⁷² It has also been five years since the so-called "Nalvarte Case", the multi-femicide of Mile Martín, Yesenia Quiroz, Nadia Vera, and Alejandra Negrete, and of the photojournalist Rubén Espinosa, who had arrived in Mexico City seeking refuge from Veracruz after being threatened. However, "the lines of investigation are far from being exhausted and the motive for the crime remains unknown".¹⁵⁷³ It has also been a year since the raid on the home of journalist Lydia Cacho and her subsequent forced displacement. The raid took place three months after the arrest warrants of the former governor of Puebla, Mario Marín; the businessman, Kamel Nacif Borge; the former director of the then Judicial Police of the state of Puebla, Hugo Adolfo Karam Beltrán; for the responsibility in the commission of torture against the journalist. The Feadle investigation "has not yielded conclusive data on the identification of those responsible." Likewise, Feadle "has not considered, despite the express request, that the raid was part of the activities planned by the power organization that caused the torture against Lydia after unveiling the criminal organization responsible for pedophilia and human trafficking".¹⁵⁷⁴

974. The country dropped one spot on the 2020 Global Impunity Index from the Committee to Protect Journalists. Various organizations and experts have pointed out that at the federal level the tools that the State would have are not used, such as exercising its authority so that the Attorney General's Office has jurisdiction and investigates crimes against journalists.¹⁵⁷⁵

¹⁵⁶⁸ Latinus. October 15, 2020. [AMLO usa su conferencia para exponer a los medios y columnistas que lo han criticado.](#)

¹⁵⁶⁹ Reporters Without Borders (RSF). October 22, 2020. [RSF, ARTICLE 19 y CPJ piden a AMLO cumplir con su compromiso de no estigmatizar el trabajo periodístico.](#)

¹⁵⁷⁰ Artículo 19. November 3, 2020. [Sin combate a la impunidad no cesará la violencia contra la prensa.](#)

¹⁵⁷¹ La Jornada. March 29, 2020. [Feadle: 18 sentencias condenatorias en tres años de labores.](#)

¹⁵⁷² Artículo 19. January 2, 2020. [Moisés Sánchez, cinco años de IMPUNIDAD.](#)

¹⁵⁷³ Artículo 19. July 31, 2020. [Cinco años de impunidad en el caso Narvarte: Familias de las víctimas reiteran su exigencia de justicia y verdad.](#)

¹⁵⁷⁴ Artículo 19. July 21, 2020. [A un año del allanamiento al domicilio de Lydia Cacho, se mantienen la impunidad y el desplazamiento forzado.](#)

¹⁵⁷⁵ Knight Center for Journalism in the Americas. November 11, 2020. [Three journalists killed in Mexico in less than two weeks: press advocates say impunity is to blame](#)<https://latamjournalismreview.org/es/articulos/tres-periodistas-asesinados-en-mexico-en-menos-de-dos-semanas-defensores-de-prensa-dicen-que-impunidad-es-la-causa/>; Artículo 19. November 3, 2020. [Sin combate a la impunidad no cesará la violencia contra la prensa.](#)

975. According to information provided by the National Human Rights Commission, despite the fact that a structural situation of violence is recognized, exacerbated by the level of impunity and self-censorship, “most of the states do not have specialized agencies for the investigation of crimes against journalists and human rights defenders”. Likewise, the CNDH highlighted that “the law enforcement bodies do not consider or evaluate the level of risk related to their work, much less the context associated with it, which are fundamental aspects to be able to identify the real causes and material and intellectual authors, which means that the investigations of crimes committed against them are not effective, thus perpetuating the cycle of impunity and the repetition of such crimes”.¹⁵⁷⁶

976. The CNDH added that the entity has insisted that “there is nothing more permissive to the repetition of violence against the press than the absence of a strong institutional reaction -and therefore it is important that the authorities at the highest level continue to emphatically repudiate this escalation of violence- and nothing is more encouraging and reassuring for people who exercise violence than impunity for crimes against journalists”.¹⁵⁷⁷

G. Internet and freedom of expression

977. The coronavirus pandemic also made clear the existing gap in access to internet. According to available data, there are reportedly 32 million Mexicans who do not have internet access. This has been particularly serious for students who have seen a change in the educational model and who, since they do not have the means to access it, are excluded. In the municipality of Tecoaapa, in Guerrero, students have been forced to return to work in the fields or join the Army because they cannot continue with their studies. In Huamuchapa, also in Guerrero, for example, there are only two internet cafes and not 10 percent of the people have a cell phone¹⁵⁷⁸. In the start of the school year scheduled for August 24, it was determined that millions of students will begin their educational cycle through television. The decision would have been made because television coverage is 94% compared to 70% or 80% on the internet, according to government figures¹⁵⁷⁹. The project is carried out in partnership with four private television stations, and also giving books for free. Precisely with the beginning of this school year, on August 24, a family from Puebla went viral who went to a field of a housing unit to take classes using the free internet¹⁵⁸⁰. The concern is also for traditionally vulnerable populations such as indigenous communities. Thus, for example, a federal representative assured that a program is needed to provide computers and televisions with open channels and the Internet for students from indigenous communities that allow them to continue with their study program. He also made a call to the Ministry of Education so that the "Aprende en casa II" program rethinks a strategy that allows these communities to learn in their languages.¹⁵⁸¹

H. Protection mechanism

978. The Office of the Special Rapporteur received with concern information on the decision of the Mexican Congress that on October 21 approved the elimination of 109 public trusts in the country that financed different organizations and programs, including the Fund for the Protection of Human Rights Defenders and Journalists, and the Comprehensive Assistance, Attention, and Reparation Fund (FAARI) for Victims¹⁵⁸². The vote took place in the alternate seat of the Senate because protests by the opposition,

¹⁵⁷⁶ Archive of the Office of the Special Rapporteur for Freedom of Expression. Communication sent by Comisión Nacional de los Derechos Humanos. October 2020. Actualización correspondiente al año 2020 de la aportación de la Comisión Nacional de los Derechos Humanos de México (CNDH) en el marco de la revisión del cumplimiento de recomendaciones contenidas en el “Informe sobre la situación de los Derechos Humanos en México”, publicado por la Comisión Interamericana de Derechos Humanos en 2015.

¹⁵⁷⁷ Archive of the Office of the Special Rapporteur for Freedom of Expression. Communication sent by Comisión Nacional de los Derechos Humanos. October 2020. Actualización correspondiente al año 2020 de la aportación de la Comisión Nacional de los Derechos Humanos de México (CNDH) en el marco de la revisión del cumplimiento de recomendaciones contenidas en el “Informe sobre la situación de los Derechos Humanos en México”, publicado por la Comisión Interamericana de Derechos Humanos en 2015.

¹⁵⁷⁸ Animal Político. August 7, 2020. [Aislados y sin internet: jóvenes padecen exclusión escolar durante la epidemia.](#)

¹⁵⁷⁹ AFP. August 25, 2020. [Millones de estudiantes mexicanos vuelven a clases... por televisión.](#)

¹⁵⁸⁰ MSN. August 28, 2020. [Familia toma clases en cancha de su colonia para tener internet gratis.](#)

¹⁵⁸¹ Infobae. August 18, 2020. [Comunidades indígenas necesitarán acceso a TV e Internet ante nuevo modelo educativo.](#)

¹⁵⁸² Artículo 19 México. October 21, 2020. [La eliminación de los fideicomisos pone en riesgo la vida de personas defensoras de derechos humanos, periodistas y víctimas;](#) Animal Político. October 21, 2020. [Morena 'sepulta' los fideicomisos: impone mayoría en el Senado y se aprueba en lo general y particular su eliminación.](#)

activists, and victims had closed the entrance to the Senate building¹⁵⁸³. The information available would show that the affected sectors were not heard by the parliamentarians¹⁵⁸⁴ and several civil society organizations as well as officials alerted about the disappearance of the fund for the protection of journalists and human rights defenders.¹⁵⁸⁵ Trust 10232 for the Protection of Human Rights Defenders and Journalists had the “purpose of allocating economic resources exclusively for the implementation and operation of preventive measures, protection measures, and urgent protection measures dictated by the Protection Mechanism, and other acts established by law, which guarantee the life, integrity, liberty, and security of people who are at risk as a consequence of the defense or promotion of human rights and the exercise of freedom of expression and journalism”.¹⁵⁸⁶

979. According to the information received, on April 2, President Andrés Manuel López Obrador signed a decree to eliminate the trusts established by agreements or decrees of the Executive power. This first decree did not seek to eliminate those created by law¹⁵⁸⁷, which would include the protection of journalists and human rights defenders. In a statement dated April 3, the Mechanism for the Protection of Human Rights Defenders and Journalists stated that “there is no risk whatsoever for the permanence and operation of Trust 10232 of the Fund for the Protection of Human Rights Defenders and Journalists (in hereinafter the Trust Fund for Protection), the foregoing by virtue of the fact that it is mandated by the Law”¹⁵⁸⁸. However, on May 20, the ruling Morena party presented a bill to modify laws that would allow the elimination of 44 trusts with the aim of using the money to face the crisis generated by the COVID-19 pandemic.¹⁵⁸⁹ Despite the fact that the bill was withdrawn at one point due to controversy¹⁵⁹⁰, legislators were modifying the bill to modify a total of 109 trusts¹⁵⁹¹, which was subsequently approved by Congress on October 21. In a statement dated September 28, the Mechanism for the Protection of Human Rights Defenders and Journalists urged that Trust 10232 not disappear and assured that the Mechanism “is a public policy instrument that, given the climate of violence facing the country it has been recognized by international organizations as a necessary institution to guarantee freedom of expression and the right to defend human rights in Mexico, alleviating violence against journalists and human rights defenders”. For the Mechanism, the disappearance of the Trust “would have negative implications in the development of protection actions, such as the increase in administrative procedures or the loss of flexibility in the adoption and implementation of measures in the face of emerging risk situations.” By that date, the Mechanism had 1,304 people under its protection, 418 of them journalists and 886 human rights defenders.¹⁵⁹² In a discussion in Parliament on June 8, a consensus was given to respect Trust 10232.¹⁵⁹³

980. According to the organization Article 19, the decree does not clearly establish “where the resources obtained from the extinction of the trusts will be and how they will be used, once they are returned to the

¹⁵⁸³ Artículo 19. October 21, 2020. [La eliminación de los fideicomisos pone en riesgo la vida de personas defensoras de derechos humanos, periodistas y víctimas](#); Animal Político. October 21, 2020. [Morena ‘sepulta’ los fideicomisos: impone mayoría en el Senado y se aprueba en lo general y particular su eliminación](#).

¹⁵⁸⁴ Artículo 19. October 21, 2020. [La eliminación de los fideicomisos pone en riesgo la vida de personas defensoras de derechos humanos, periodistas y víctimas](#).

¹⁵⁸⁵ Forbes México. October 2, 2020. [Alertan sobre riesgo de desaparecer el fondo de protección a periodistas y activistas](#).

¹⁵⁸⁶ Gobierno de México. Mecanismo de Protección para Personas Defensoras de Derechos Humanos y Periodistas. September 3, 2018. [Fideicomiso 1032: Protección de Personas Defensoras de Derechos Humanos y Periodistas](#).

¹⁵⁸⁷ Diario Oficial de la Nación. April 2, 2020. [DECRETO por el que se ordena la extinción o terminación de los fideicomisos públicos, mandatos públicos y análogos](#); Animal Político. April 3, 2020. [AMLO ordena extinguir fideicomisos: dinero será para los pobres y reactivación económica](#); Business Insider. April 4, 2020. [El decreto de AMLO para extinguir fideicomisos le pone el pie a la Ley de Austeridad — y debilita más a la economía](#).

¹⁵⁸⁸ Gobierno de México. Mecanismo de Protección para Personas Defensoras de Derechos Humanos y Periodistas. April 3, 2020. [Comunicado sobre el Fideicomiso 10232 del Mecanismo de Protección](#).

¹⁵⁸⁹ La Jornada. May 20, 2020. [Morena presenta iniciativa para eliminar 44 fideicomisos](#); Business Insider. May 22, 2020. [Morena manda a la congeladora iniciativa de extinción de fideicomisos tras polémica](#); Artículo 19. October 13, 2020. [Llamado al Senado para analizar Fideicomisos y Fondos antes de eliminarlos](#); Reporters Without Borders (RSF). October 23, 2020. [Threat to Mexico’s mechanism for protecting journalists](#).

¹⁵⁹⁰ Business Insider. May 22, 2020. [Morena manda a la congeladora iniciativa de extinción de fideicomisos tras polémica](#).

¹⁵⁹¹ La Jornada. September 29, 2020. [Sube Morena a 109 los fideicomisos que se liquidarán](#); El Economista. September 19, 2020. [Morena sube a 109 los fideicomisos a desaparecer](#); Artículo 19. October 13, 2020. [Llamado al Senado para analizar Fideicomisos y Fondos antes de eliminarlos](#).

¹⁵⁹² Gobierno de México. Mecanismo de Protección para Personas Defensoras de Derechos Humanos y Periodistas. September 28, 2020. [Urge la no desaparición del Fideicomiso del Fondo para la Protección de Personas Defensoras de Derechos Humanos y Periodistas](#).

¹⁵⁹³ Gobierno de México. Mecanismo de Protección para Personas Defensoras de Derechos Humanos y Periodistas. September 28, 2020. [Urge la no desaparición del Fideicomiso del Fondo para la Protección de Personas Defensoras de Derechos Humanos y Periodistas](#).

Federation Treasury and does not specifically indicate what Regulatory frameworks have to be modified or reformed, what new financial mechanisms are going to be applied or in what terms, to ensure resources to the beneficiaries of the trusts that are going to disappear".¹⁵⁹⁴ For the organization, the decision implies "inability to adopt protection measures for human rights defenders and journalists with the urgency that dangerous situations demand, as well as financing their cost and accessing resources with the immediacy that is required. Obstacles for the development of protection actions, such as the increase in administrative procedures and loss of flexibility in the adoption and implementation of measures in the face of imminent risk situations. Elimination of padlocks that prevented resources from being used for purposes other than protection measures or attention to victims. By passing into the hands of SEGOB, the door is left open to arbitrary use of resources and, therefore, to opacity and corruption. Violation to the rights of victims, defenders and journalists at risk since the operation will be subject to political priorities and criteria".¹⁵⁹⁵

981. On November 6, President López Obrador published the decree eliminating the 109 trusts in the Official Gazette. According to this, the entities would have 30 calendar days, from the day following its publication, to send to the Federal Treasury "all the federal public resources that are part of the trusts, mandates, and public analogues provided for in the provisions that are abrogated, amended or repealed by virtue of this Decree, unless the Ministry of Finance and Public Credit determines a different date for the concentration of resources". According to the decree, in the case of the Law for the Protection of Human Rights Defenders and Journalists "the denomination of Chapter X and articles 48, 50, 54 and 63, last paragraph are reformed; and articles 2 sixth paragraph, 8 section XVII, 49 51, 52, 53, and 54 of the Law for the Protection of Human Rights Defenders and Journalists are repealed". It establishes in Article 48 that "to fulfill the purpose of this Law, the Ministry of the Interior shall provide the necessary resources in the preliminary draft budget for each fiscal year for the Protection of Human Rights Defenders and Journalists" and in Article 50 that "the resources provided will be used exclusively for the implementation and operation of the Preventive Measures, Protection Measures, and Urgent Protection Measures and the performance of the other acts established by the Law for the implementation of the Mechanism, such as independent evaluations." According to the decree, the surplus received by the Treasury would be used in measures to counteract the COVID-19 pandemic.¹⁵⁹⁶

982. The Office of the Special Rapporteur draws attention to this measure adopted by the Mexican Congress, which diminishes the institutional capacity to protect journalists threatened for doing their work. In its 2019 Annual Report¹⁵⁹⁷, the Office of the Special Rapporteur warned that the government's response to implement improvements and provide resources to the Protection Mechanism for Human Rights Defenders and Journalists was insufficient given the magnitude of the violence carried out against these groups. For this reason, the Mexican State has been repeatedly recommended to continue strengthening the Mechanism and ensure the effective application of its decisions and measures. Along these lines, the Office of the Special Rapporteur has also recommended that the Special Prosecutor's Office for Attention to Crimes against Freedom of Expression (FEADLE) be provided with more resources and that it exercises with determination its power to have jurisdiction over serious crimes against the press. A situation that is doubly worrisome due to the high numbers of violence against journalists in the country. In 10 days, between October and November, the country registered three murders and the disappearance of one more journalist. Likewise, the

¹⁵⁹⁴ Artículo 19 México. October 21, 2020. [La eliminación de los fideicomisos pone en riesgo la vida de personas defensoras de derechos humanos, periodistas y víctimas.](#)

¹⁵⁹⁵ Artículo 19 México. October 1, 2020. [Eliminar fideicomisos y fondos pone en riesgo la vida de personas víctimas, personas defensoras de derechos humanos y periodistas.](#)

¹⁵⁹⁶ Diario Oficial de la Nación. November 6, 2020. [DECRETO por el que se reforman y derogan diversas disposiciones de la Ley para la Protección de Personas Defensoras de Derechos Humanos y Periodistas; de la Ley de Cooperación Internacional para el Desarrollo; de la Ley de Hidrocarburos; de la Ley de la Industria Eléctrica; de la Ley Federal de Presupuesto y Responsabilidad Hacendaria; de la Ley General de Protección Civil; de la Ley Orgánica de la Financiera Nacional de Desarrollo Agropecuario, Rural, Forestal y Pesquero; de la Ley de Ciencia y Tecnología; de la Ley Aduanera; de la Ley Reglamentaria del Servicio Ferroviario; de la Ley General de Cultura Física y Deporte; de la Ley Federal de Cinematografía; de la Ley Federal de Derechos; de la Ley del Fondo Mexicano del Petróleo para la Estabilización y el Desarrollo; de la Ley de Bioseguridad de Organismos Genéticamente Modificados; de la Ley General de Cambio Climático; de la Ley General de Víctimas y se abroga la Ley que crea el Fideicomiso que administrará el Fondo de Apoyo Social para Ex Trabajadores Migratorios Mexicanos.](#)

¹⁵⁹⁷ IACHR. [Annual Report 2019. Annual Report of the Office of the Special Rapporteur for Freedom of Expression.](#) OEA/Ser.L/V/II. Doc. 5. February 24, 2020. Par. 857-861

Office of the Special Rapporteur draws attention to the murder of two journalists this year who were under the Protection Mechanism.

983. In this context, on November 19, journalist Omar Bello Pineda, who has been displaced in Mexico City for three years and threatened with death, along with other people started a sit-in in front of the Ministry of the Interior.¹⁵⁹⁸ The journalist has denounced that the Mechanism for the Protection of Human Rights Defenders and Journalists had refused to provide him with bodyguards. On December 14, protesters drew blood from their arms with a catheter and painted the walls for officials of the entity to receive them. Bello Pineda was a reporter for the *ABC* newspaper of Zihuatanejo in the state of Guerrero and left the city in 2017 after criminal groups harassed him into writing what they said, or they would kill him.¹⁵⁹⁹

984. The National Human Rights Commission, a permanent member of the Mechanism's Governing Board, informed this Office that the Government of Mexico had informed that from September 2019 to June 2020 actions of "institutional reengineering" had been taken for the Mechanism, which include the application of the organizational structure, the redesign of the risk analysis to include a gender perspective. Likewise, state diagnoses were carried out on the situation of journalists and human rights defenders in the states of Puebla, Veracruz, and Guanajuato.¹⁶⁰⁰

985. Notwithstanding this, within the framework of the 178^o Period of Sessions of the IACHR, the State of Mexico emphasized that, beyond the legal reforms that led to the extinction of certain trusts, the resources for the Mechanism for the Protection of Human Rights Defenders and Journalists are guaranteed and that there was no decrease in resources. The Mexican State insisted that in no way will it stop serving the beneficiaries of the Mechanism; and stressed that the new legal provisions will facilitate the control of public spending and accountability.¹⁶⁰¹

I. Social protest

986. This Office received information about the excessive use of force by the Guanajuato State Police to dissolve a demonstration by different groups and relatives of the disappeared who were protesting the appointment of the head of the State Search Commission and seeking to speak with the governor of the state, Diego Sinhue Rodríguez Vallejo. According to the information sent, those who demonstrated were beaten and pushed for several minutes. Five people were detained: three women from the search groups, a member of the Guanajuato Despertó Collective, and a deputy visitor from the National Human Rights Commission (CNDH). Although the four women were released the same day, they were linked to an investigation for "blocking communication channels and injuries." During the day, another member of the group "A tu Encuentro" ended up with a broken leg.¹⁶⁰²

987. The Office of the Special Rapporteur received information about the repression by the police of a feminist social protest that took place on August 22 in León, Guanajuato state, which left at least four reporters injured and 22 people arrested.¹⁶⁰³ The protest was called by different groups and was called to demand justice for Evelyn, a young woman who had reported being sexually abused by members of the police

¹⁵⁹⁸ Infobae. December 13, 2020. [Más de 20 días llevan afuera de Segob víctimas de desplazamiento forzado y desapariciones: exigen justicia.](#)

¹⁵⁹⁹ La Jornada. December 14, 2020. [Reportero protesta extrayéndose sangre afuera de Segob](#); Omar Bello Pineda. Twitter account (@OmarBelloZihua). [December 14, 2020; 4:29 p.m.](#); Telediario. December 15, 2020. [Periodista se extrae sangre y pinta paredes de Segob en protesta.](#)

¹⁶⁰⁰ Archive of the Office of the Special Rapporteur for Freedom of Expression. Communication sent by Comisión Nacional de los Derechos Humanos. October 2020. Actualización correspondiente al año 2020 de la aportación de la Comisión Nacional de los Derechos Humanos de México (CNDH) en el marco de la revisión del cumplimiento de recomendaciones contenidas en el "Informe sobre la situación de los Derechos Humanos en México", publicado por la Comisión Interamericana de Derechos Humanos (CIDH) en 2015

¹⁶⁰¹ IACHR. 178 Period of Sessions. [Audencia 6: Institucionalidad en derechos humanos en México, con perspectiva de género.](#) December 4, 2020.

¹⁶⁰² Pie de Página. July 10, 2020. [Gobierno de Guanajuato reprime protesta de familiares de desaparecidos](#); Animal Político. July 10, 2020. [Policías de Guanajuato detienen a familiares de desaparecidos y a una de ellas le rompen la pierna por protestar](#); UN. Office of the High Commissioner for Human Rights Mexico. July 10, 2020. [La CNDH y la ONU-DH condenan las agresiones contra manifestación pacífica en Guanajuato](#); Archive of the Office of the Special Rapporteur for Freedom of Expression. E-mail sent to the Office of the Special Rapporteur on August 12, 2020.

¹⁶⁰³ Red Nacional de Defensoras de DDHH en México. August 24, 2020. Pronunciamiento: No más violencia institucional contra activistas, periodistas y defensoras; Proceso. August 22, 2020. [Policías de León reprimen protesta por acoso sexual de los mismos agentes](#); La Jornada. August 22, 2020. [Policías reprimen protesta feminista en Guanajuato.](#)

from León on August 14 when she had left a bar.¹⁶⁰⁴ According to the information available, towards the end of the day of the demonstration, some of the reporters covering the event began to record alleged acts of police abuse and arbitrary detentions. The journalists Melissa Esquivias Espinosa, from the *Informativo Agora*; Alfonsina Ávila Ramírez, from *Zona Franca*; Martha Silva Moreno and Brenda Orozco Hernández, from the *PopLab* medium, were harassed, threatened, and even allegedly victims of physical violence by officials of the Municipal Public Security. Cases of arbitrary detentions were also reported, including of people that may not have participated in the demonstration.¹⁶⁰⁵ The four journalists filed a complaint with the Guanajuato State Attorney General's Office for attacks and restriction on freedom of expression. They also filed a complaint with the Human Rights Prosecutor's Office¹⁶⁰⁶. This institution already has an investigation open for this case.¹⁶⁰⁷

988. The Office of the Special Rapporteur draws attention to the stigmatization of social protest by public officials. On the day of the protest, the León Public Security Secretariat denounced the protest and its participants by consecutively calling it a "violent demonstration" on social media. Subsequently, on August 25, the Secretary of Public Security of Guanajuato, Alvar Cabeza de Vaca, criminalized the forms of expression of the women who demonstrated and justified the disproportionate use of force and the actions of the police¹⁶⁰⁸. The mayor of León publicly apologized to Evelyn and the four journalists on August 26 and assured that respective investigations will be carried out. However, he called on citizens to demonstrate "respecting the rule of law".¹⁶⁰⁹

989. On September 10, women activists in the municipality of Ecatepec, state of Mexico, seized the city offices of the Human Rights Commission as a protest to pressure authorities into investigations into cases of women victims of crime.¹⁶¹⁰ Between threats and shoves, agents of the State of Mexico prosecutor's office evicted the group and detained at least 13 people. After the detainees were released, a group of women set fire to the Commission's facilities in response to the police brutality of the previous night.¹⁶¹¹ For this, the National Human Rights Commission sent a recommendation to the Attorney General of the State of Mexico, Alejandro Jaime Gómez Sánchez, and to the president of the Human Rights Commission of the State of Mexico (CODHEM), Jorge Olvera García, after the Commission "accredited violations of the human rights of freedom of assembly and of dignified treatment and personal integrity, attributable to elements of the Investigative Police of the Attorney General's Office of the State of Mexico to the detriment of members of the Ehécatl Collective, in defense of women's rights and the Iris Foundation". According to the Commission, the Prosecutor's Office did not seek channels of dialogue and solutions to the activists' complaints, in addition to violating their right to dignified treatment and personal integrity by having been evicted "with excessive use of force." For their part, the Commission staff failed to protect and guarantee human rights by abandoning them and not following up on the precautionary measures they requested for the children who were in the place, according to the Commission. The National Commission asked both the Prosecutor's Office and the local Commission for all collaboration in the investigation of the case, adding that the Prosecutor's Office must fully repair the victims, register them in the state registry of victims, and provide them with medical care, among some measures. Finally, it pointed out that the Office of the Prosecutor should "design and impart a comprehensive course on training and education in human rights specifically to prevent and effectively identify behaviors that violate the human dignity of the victims and the freedom of assembly, in the case of demonstrations and social protests, with a gender perspective and addressing the right to the best interests of children".¹⁶¹²

¹⁶⁰⁴ La Silla Rota Guanajuato. August 23, 2020. [El caso de Evelyn: una historia que alertó a colectivos feministas](#).

¹⁶⁰⁵ Red Nacional de Defensoras de DDHH en México. August 24, 2020. Pronunciamento: No más violencia institucional contra activistas, periodistas y defensoras; Proceso. August 22, 2020. [Policías de León reprimen protesta por acoso sexual de los mismos agentes](#).

¹⁶⁰⁶ SinEmbargo. August 25, 2020. [Cuatro periodistas presentan denuncia por agresiones durante la protesta en León, Guanajuato](#).

¹⁶⁰⁷ El Universal. August 23, 2020. [Investigan represión y golpes a periodistas durante manifestación en Guanajuato](#).

¹⁶⁰⁸ Artículo 19. August 28, 2020. [Autoridades de Guanajuato deben abstenerse de estigmatizar el derecho a la protesta](#); SinEmbargo. August 23, 2020. [22 mujeres y un hombre son detenidos con violencia durante reclamo de #JusticiaParaEvelyn en Guanajuato](#).

¹⁶⁰⁹ Animal Político. August 26, 2020. [Municipio de León se disculpa con joven que denunció acoso policial y periodistas agredidas en protesta](#).

¹⁶¹⁰ Animal Político. September 10, 2020. [Colectivas toman oficinas de CNDH en Ecatepec y protestan en instalaciones de otros 4 estados](#).

¹⁶¹¹ El País. September 11, 2020. [El desalojo de una protesta feminista dispara las críticas contra la Fiscalía del Estado de México](#).

¹⁶¹² Comisión Nacional de Derechos Humanos. December 15, 2020. Comunicado de prensa DGC/380/2020. [CNDH emite recomendación a la FGIEM y a la CODHEM relacionada con las agresiones cometidas contra manifestantes en Ecatepec, EdoMex](#).

990. Three people, including two reporters, were injured on the night of November 9 after a group of 50 municipal police officers from Cancún, Quintana Roo state, repressed and shot down a feminist protest that was taking place in front of the Municipal Palace. According to available information, at least 2,000 people protested the death of two women in less than 24 hours in the city. The protesters would have broken windows and burned wood that protected the Municipal Palace and when they tried to enter the building, hooded uniformed individuals with bulletproof vests and long weapons suddenly burst in and fired in the central square a few meters from those who were demonstrating¹⁶¹³. The police officers allegedly chased and beat those who tried to record the attack. The telephones and cameras were also taken away from the journalists who were covering the protest¹⁶¹⁴. At least two journalists Roberto Becerril, from *La Verdad*, who received a bullet in the shoulder, and Cecilia Solís, from *Radio Turquesa*, who received a bullet in the foot, were injured in the incident. Two other journalists were treated at a hospital due to the beatings by the police¹⁶¹⁵. Although the authorities announced investigations to determine what happened in the operation, the Office of the Special Rapporteur finds it worrying that there is no one responsible for giving the order to disperse the demonstration because the authorities have dissociated themselves from the events. According to the available information, in the state of Quintana Roo the Single Command is established, which means that the State Secretariat of Public Security has control of all the police, including the municipal ones¹⁶¹⁶. The mayor of Cancun, Mara Lezama, and the governor of the state, Carlos Joaquín González, assured on their social networks that they had not done so. The Secretary of Public Security of Quintana Roo, Alberto Capella, reported that he had ordered an investigation into what happened. The director of Public Security of the Benito Juárez City Council (municipality whose head is Cancún), Eduardo Santamaría, was separated from his position. And the Secretary General of the City Council, Issac Janix Alanís, announced his resignation from office for not agreeing with the repression.¹⁶¹⁷

J. Government Advertising

991. On April 23, in the Official Gazette of the Federation, the decree of President Andrés Manuel López Obrador was published in which he returns 7 minutes of fiscal time to television and 14 minutes to radio. According to the decree, as of May 15, the official times that radio and television stations pay to the Treasury will decrease.¹⁶¹⁸ The announcement about this decision had been made by the president in his daily conference on April 3. In this he would have said that his government did not need "propaganda" and that this decision was in tune with his purpose of reducing spending on government advertising. At the time, several organizations protested against this decision, emphasizing that the fiscal time was not only used by the President, but also by different State institutions. It was also criticized that these spaces were designated as "propaganda" taking into account that these spaces are made to communicate information of public interest. Finally, it generated criticism that this decision was made in the midst of the COVID-19 pandemic amid complaints due to lack of public information.¹⁶¹⁹

992. Due to this decision, on May 7, the National Electoral Institute (INE) filed a constitutional controversy remedy against this decree before the Supreme Court of Justice of the Nation, considering that the president "invaded its powers" taking into account that the INE is the authority in the administration of official times that correspond to the State. According to the INE, these spaces would have the purpose of guaranteeing fairness in the contest, equal treatment in the dissemination of ideas, and that citizens exercise their right to

¹⁶¹³ El País. November 10, 2020. [La policía de Cancún disuelve a tiros una manifestación feminista](#); EFE. November 10, 2020. [La Policía reprime con disparos una protesta feminista en Cancún dejando heridos](#).

¹⁶¹⁴ El País. November 10, 2020. [La policía de Cancún disuelve a tiros una manifestación feminista](#); EFE. November 10, 2020. [La Policía reprime con disparos una protesta feminista en Cancún dejando heridos](#); El Sol de México. November 10, 2020. [Reporteros reprochan a alcaldesa agresiones en protesta feminista](#).

¹⁶¹⁵ El País. November 10, 2020. [La policía de Cancún disuelve a tiros una manifestación feminista](#); DW. November 11, 2020. [México: condenan represión de marcha feminista en Cancún](#).

¹⁶¹⁶ DW. November 11, 2020. [México: condenan represión de marcha feminista en Cancún](#).

¹⁶¹⁷ El País. November 10, 2020. [La policía de Cancún disuelve a tiros una manifestación feminista](#); DW. November 11, 2020. [México: condenan represión de marcha feminista en Cancún](#); El Sol de México. November 10, 2020. [Renuncia secretario municipal por represión policiaca en Cancún](#); El Sol de México. November 10, 2020. [Cesan a secretario de Seguridad de Quintana Roo tras represión de manifestantes](#).

¹⁶¹⁸ Diario Oficial de la Federación. April 23, 2020. [DECRETO por el que se autoriza a la Secretaría de Hacienda y Crédito Público a recibir de los concesionarios de estaciones de radio y televisión el pago del impuesto que se indica](#); El Universal. April 24, 2020. [AMLO regresa tiempos fiscales a radio y TV](#).

¹⁶¹⁹ Artículo 19. April 3, 2020. [Eliminar tiempos fiscales en medios de comunicación es un retroceso al derecho a la información](#).

vote in an informed manner. The INE asked the Supreme Court to suspend the decree while it rules on the merits.¹⁶²⁰ Although the SCJN did not suspend the entry into force of the decree, it admitted the case.¹⁶²¹

993. President Andrés Manuel López Obrador has emphasized on several occasions that he wants to reduce the government advertising budget, although he has not said how much it would be. However, the budget for 2020 is 2,600 million Mexican pesos, which is reduced by almost half of the presumed 2019 budget, which was 5,200 million Mexican pesos¹⁶²².

K. Subsequent Liabilities

994. On January 28, the Civil Judge 16 of Mexico City ordered the seizure of the assets of the researcher and academic Sergio Aguayo Quezada in the event that he did not pay the compensation of 10 million Mexican pesos (about US\$530,000) that the Sixth Civil Chamber Mexico City ordered to pay in favor of the former governor of Coahuila, Humberto Moreira, in October 2019¹⁶²³. In 2019, the Office of the Special Rapporteur included this case in its annual report. At the time, it was known that the judges of the sixth civil court revoked the sentence that the journalist had already won in March 2019 and agreed with former Governor Moreira. The sentence concluded that Aguayo "has caused moral damage to the plaintiff Humberto Moreira Valdés, affecting his honor", and condemned him to "publication or dissemination of the conviction at his expense, in the newspapers *Reforma* and *Siglo de Torreón*," and personal twitter of the defendant Sergio Aguayo Quezada, as it was in said media and formats where the facts and opinions that constituted the damage to the moral patrimony of the act were disseminated". As well as to pay the 10 million Mexican pesos "for punitive damages", in addition to the payment of "expenses and costs (expenses that must be paid in a judicial process) generated", which were not specified.¹⁶²⁴ Aguayo paid 450,000 Mexican pesos to stop the seizure order¹⁶²⁵. On July 29, the First Chamber of the Supreme Court of Justice of the Nation decided to hear the Aguayo case as part of the *amparo* that he filed against the sentence of the Sixth Civil Chamber of the Superior Court of Justice of the City of Mexico. The Court accepted the proposal of Minister Alfredo Gutiérrez Ortiz Mena, considering that "the matter raised has the characteristics of interest and significance, since when solving it, it could rule on constitutional issues and transcendent aspects of legality, dealing with matters where the right of freedom of expression and rights to the image and honor of individuals are in tension"¹⁶²⁶.

995. The Office of the Special Rapporteur also took note that on April 15, the Ministry of the Interior published a statement -which now appears to have been eliminated- in which it announced that it would initiate an administrative sanctioning procedure against newspapers in the state of Chihuahua *El Diario de Juárez* and *El Diario de Chihuahua*, both from the same company, "for the false information disseminated in their respective editions of April 14, 2020".¹⁶²⁷ That day, *El Diario de Juárez* published an article titled "Proof of COVID deaths with photos" in which it stated that the authorities would be "making up" the death toll in the border city. The article was accompanied by a photograph of several corpses stacked up claiming had been taken at a local hospital.¹⁶²⁸ However, the photograph actually corresponded to a hospital in Ecuador¹⁶²⁹. On the cover of April 15, *El Diario de Juárez* published a clarifying note in which it apologized to

¹⁶²⁰ La Jornada. May 7, 2020. [Presenta INE ante SCJN recurso contra reducción de tiempos oficiales](#); El Universal. May 11, 2020. [Quién ganará el pleito INE vs AMLO](#).

¹⁶²¹ La Jornada. May 11, 2020. [SCJN admite a tramite controversia de INE por tiempos oficiales](#).

¹⁶²² Artículo 19. April 3, 2020. [Eliminar tiempos fiscales en medios de comunicación es un retroceso al derecho a la información](#).

¹⁶²³ Proceso. January 28, 2020. [Juez autoriza embargar a Sergio Aguayo por demanda de Humberto Moreira](#); Committee to Protect Journalists (CPJ). January 29, 2020. [Mexican journalist Sergio Aguayo Quezada fined 10 million pesos over corruption report](#).

¹⁶²⁴ IACHR. [Annual Report 2019. Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). OEA/Ser.L/V/II. Doc. 5. February 24, 2020. Par. 894.

¹⁶²⁵ Animal Político. January 28, 2020. ['Justicia de la CDMX es parcial y hostil', denuncia Sergio Aguayo tras autorización de embargo](#); Zeta Tijuana. January 28, 2020. [Sergio Aguayo paga 450 mil pesos de fianza para que Humberto Moreira no lo embarque por 10 mdp](#).

¹⁶²⁶ Suprema Corte de Justicia de la Nación. July 29, 2020. [Comunicado de prensa No. 139/2020](#). La primera sala asumió el conocimiento de un asunto relacionado con el alcance del derecho a la libertad de expresión y el derecho a la honra y a la privacidad; así como las tensiones que entre ellos pueden presentarse; Etcétera. July 29, 2020. [Suprema Corte atrae caso de Humberto Moreira contra Sergio Aguayo](#); Infobae. July 29, 2020. [Suprema Corte atrajo el caso de Sergio Aguayo contra Humberto Moreira](#).

¹⁶²⁷ Artículo 19. April 16, 2020. [ARTICLE 19 expresa preocupación por procedimientos de SEGOB contra medios por información falsa](#); Proceso. April 15, 2020. [Segob sancionará a 2 diarios de Chihuahua por publicar "fake news"](#); Committee to Protect Journalists (CPJ). May 5, 2020. [Mexican government threatens outlets over COVID-19 coverage](#).

¹⁶²⁸ El Diario de Juárez. April 14, 2020. [Prueban con fotos muertas por Covid](#).

¹⁶²⁹ El Diario de Juárez. April 14, 2020. [Aclaran abogados foto 'fake' y muertes en IMSS de Juárez por Covid](#); Artículo 19. April 16, 2020. [ARTICLE 19 expresa preocupación por procedimientos de SEGOB contra medios por información falsa](#).

its readers and assured that “the information was received in good faith without being subjected to the necessary verification of the authenticity of the photo, passing deceptively by other instances in the editing and publishing process. Without a doubt, the inclusion of the photo was in any way unjustifiable a mistake”.¹⁶³⁰ On April 16, the Ministry of the Interior issued a statement in which it announced that following instructions from President Andrés Manuel López Obrador to “privilege freedom of expression and exhort the professional ethics of journalists,” the sanctioning against the two media would not be carried out.¹⁶³¹

996. The Office of the Special Rapporteur also learned of a warning of “possible legal consequences” that the Ministry of the Interior made to the *TV Azteca* channel for statements about the federal health authority.¹⁶³² According to the available information, on the nightly stellar newscast, the presenter Javier Alatorre told the public not to follow the instructions of Hugo López-Gatell, undersecretary of Prevention and Health Promotion, because in his opinion the statistics shown by the official were not true. As alleged evidence, he would have shown how local authorities had denied the figures given by López-Gatell.¹⁶³³

L. Misinformation and COVID-19

997. The Office of the Special Rapporteur also received information on cases in which some public officials made statements that could contribute to creating a climate of disinformation. Thus, for example, on March 25, the governor of Puebla, Miguel Barbosa, stated at a press conference that the coronavirus mainly attacks people who are “well-off” and that “the poor are immune”.¹⁶³⁴ On March 14, the same governor reportedly said: “They told me that the vaccine that has already been discovered against the coronavirus is a plate of turkey mole. We are going to throw ourselves a plate of vaccine against that virus that threatens the world”¹⁶³⁵. The President also reportedly provided information contrary to that given by the Undersecretary of Health. On March 4, for example, he would have recommended hugging, despite the fact that it is a measure that contradicts the indications of social distancing.¹⁶³⁶ On March 18, the president would have said that the protective shield against COVID was “‘stop’, honesty, not allowing corruption”, and he would have shown protective amulets that he called his “bodyguards”.¹⁶³⁷

M. Access to public information

998. Access to public information was affected by the pandemic. The National Institute of Transparency, Access to Information and Protection of Personal Data (INAI) suspended the periods and terms in which the obligated subjects must respond to requests for information and review resources due to the health contingency as of 23 of March. The entity reported that although it did not stop working, it understood that other organizations had suspended face-to-face work and that this meant that they could not respond to requests at the same pace.¹⁶³⁸ The deadline was lifted on April 30 for those public institutions that continue their operations and whose activities are considered essential. The public institutions that stopped because their activities are not essential, this period of suspension was extended until May 30.¹⁶³⁹

999. Along the same lines, the Office of the Special Rapporteur received information from the Mexico Justo Civil Association, the Michoacan Center for Evaluation (Cemide), and the Regional Observatory Zamora A.C. on the lack of response to several requests for information related to the coronavirus pandemic in the

¹⁶³⁰ Artículo 19. April 16, 2020. [ARTICLE 19 expresa preocupación por procedimientos de SEGOB contra medios por información falsa.](#)

¹⁶³¹ Gobierno de México. April 16, 2020. [Gobernación no iniciará procedimiento administrativo sancionatorio contra El Diario de Juárez y El Diario de Chihuahua.](#)

¹⁶³² Gobierno de México. April 18, 2020. [Apercibimiento público a Televisión Azteca.](#)

¹⁶³³ El Universal. April 18, 2020. [¿Qué dijo Javier Alatorre?; Committee to Protect Journalists \(CPJ\). May 5, 2020. Mexican government threatens outlets over COVID-19 coverage.](#)

¹⁶³⁴ Artículo 19. July 9, 2020. [Informe especial C.O.V.I.D: Libertad de expresión e información durante pandemia de COVID-19 en México y CA.](#) P. 51.

¹⁶³⁵ Artículo 19. July 9, 2020. [Informe especial C.O.V.I.D: Libertad de expresión e información durante pandemia de COVID-19 en México y CA.](#) P. 51.

¹⁶³⁶ Artículo 19. July 9, 2020. [Informe especial C.O.V.I.D: Libertad de expresión e información durante pandemia de COVID-19 en México y CA.](#) P. 51.

¹⁶³⁷ Artículo 19. July 9, 2020. [Informe especial C.O.V.I.D: Libertad de expresión e información durante pandemia de COVID-19 en México y CA.](#) P. 52.

¹⁶³⁸ La Jornada. March 20, 2020. [Suspenderá Inai plazos para responder a solicitudes de información;](#) LJA.MX. March 21, 2020. [INAI SUSPENDE TÉRMINOS Y PLAZOS POR COVID-19.](#)

¹⁶³⁹ El Universal. May 1, 2020. [Inai determina reanudar plazos para atender solicitudes de información.](#)

country. According to a document sent to this Office, Cemide made five requests for information to different government agencies, related to the number of hospital deaths and the causes of death, registered from December 31, 2019 to April 8, 2020, both at the state and municipal level. Likewise, the Zamora Legal Observatory made four requests for information to the Michoacán State Congress, on the regulations approved by Congress to deal with COVID-19, the extraordinary resources assigned to public entities to deal with the pandemic, public purchases and contracting made, and expenses incurred until June 3, 2020 with the same objective. However, none of these requests were answered for "not being considered essential in the context of the crisis".¹⁶⁴⁰

1000. On the other hand, the director of the magazine *Zeta*, Adela Navarro, in Tijuana state of Baja California denounced that there is also hostility towards the media in the framework of the pandemic. According to her, the media do not receive the information they request and there are inconsistencies in the figures provided by the authorities. Something similar denounced an independent journalist in Querétaro, Querétaro state, who assured that she did not receive official figures of confirmed people because, according to the authorities, they wanted to prevent "discrimination against infected people in smaller communities".¹⁶⁴¹

1001. For the Office of the Special Rapporteur, the lack of information for indigenous communities, one of the most affected by the pandemic, has been particularly worrying. According to the information received, in the country, information on the pandemic, its symptoms, effects, and protection measures has been disseminated by the federal and state governments through media such as television and social networks. Only until the end of March, some information related to the pandemic had been translated into some indigenous languages, "but its dissemination was mainly limited to content in text format, through the internet, on official pages and social networks, demonstrating, once again, the lack of cultural relevance and its late diffusion"¹⁶⁴². In April, the National Institute of Indigenous Languages launched a microsite with translation into 64 indigenous languages with the message "Stay home"¹⁶⁴³ and other basic information about the pandemic¹⁶⁴⁴. Members of a community in Chiapas have produced radio capsules to be broadcast by peripherals based on official information. However, the translation would have been difficult because the language is very technical. Civil society organizations in Oaxaca and Chiapas reportedly had to file *amparo* claims for local authorities to translate information about the pandemic. Although the *amparos* were granted, it would not be known until May that they had been complied with.¹⁶⁴⁵

N. Other relevant situations

1002. In the context of the pandemic, the safety of press workers has been a matter of concern in Mexico. Journalists expressed a general concern about the vulnerability in which they are to exercise their journalistic work. Reporters, for example, would not have good protective measures as exposure to the virus is increasing and would have requested greater access to testing for COVID-19. In Monclova, Coahuila state, a group of reporters asked for tests to be carried out on at least 50 workers who covered two protests by medical personnel from a hospital demanding protective equipment and after some of these protesters tested positive for COVID-19. Some journalists have reported having to pay for safety items.¹⁶⁴⁶ As of May 27, 13 journalists' deaths by COVID-19 had been registered¹⁶⁴⁷. By November 12, the figure had already risen to 32 journalists' dead, making the country the second highest in the region. Organizations such as the International Federation

¹⁶⁴⁰ Archive of the Office of the Special Rapporteur for Freedom of Expression. E-mail sent to the Office of the Special Rapporteur on June 17, 2020.

¹⁶⁴¹ Committee to Protect Journalists (CPJ). April 20, 2020. [In Mexico, reporters covering COVID-19 face equipment shortages and government obstruction](#).

¹⁶⁴² Artículo 19. July 9, 2020. [Informe especial C.O.V.I.D: Libertad de expresión e información durante pandemia de COVID-19 en México y CA](#). P. 26.

¹⁶⁴³ Gobierno de México. Secretaría de Cultura. Micrositios. (n.d.) [Materiales en lenguas indígenas para prevenir el coronavirus COVID-19](#).

¹⁶⁴⁴ Artículo 19. July 9, 2020. [Informe especial C.O.V.I.D: Libertad de expresión e información durante pandemia de COVID-19 en México y CA](#). P. 27.

¹⁶⁴⁵ Artículo 19. July 9, 2020. [Informe especial C.O.V.I.D: Libertad de expresión e información durante pandemia de COVID-19 en México y CA](#). P. 28.

¹⁶⁴⁶ Committee to Protect Journalists (CPJ). April 20, 2020. [In Mexico, reporters covering COVID-19 face equipment shortages and government obstruction](#).

¹⁶⁴⁷ Infobae. June 2, 2020. [El costo de comunicar: hasta el momento 13 periodistas han muerto por COVID-19 en México](#); EFE. June 2, 2020. [127 periodistas en el mundo murieron por coronavirus, muchos en Latinoamérica](#).

of Journalists pointed out as the cause the lack of a social policy to protect reporters as well as precarious working conditions.¹⁶⁴⁸

1003. The health contingency has also affected the media and journalists financially. According to available information, some media have cut their payroll, reduced salaries, or completely closed their editions, exacerbating the economic situation of journalists in the country, which had already been affected by the economic crisis in Mexico, and the widespread lack of protection for journalists in the country. For example, Grupo Crónica announced the end of its printed editions due to the coronavirus emergency. Since April 1, the newspapers *La Crónica de Hoy*, *Crónica Hidalgo*, and *Crónica de Jalisco* are no longer published.¹⁶⁴⁹

1004. The information presented shows that Mexico continues to be one of the most dangerous countries in the region to practice journalism, registering at least seven murders in the course of 2020, in addition to others in which there could be some link with the exercise of information. The Office of the Special Rapporteur also observed that high levels of impunity persist, which perpetuates violence. Likewise, the tendency of hostility and intimidation towards the media and journalists has been highlighted. The lack of access to information and the accusations by authorities towards the media for allegedly not fulfilling their role have stressed this relationship. The Office also noted with concern the excessive use of force by the Police to resolve various demonstrations, which left several people injured, some of them journalists. In view of this, the Office of the Special Rapporteur reminds the State that:

1005. **The murder of journalists constitutes the most extreme form of censorship, and impunity contributes to the self-censorship of the press.** States have a positive obligation to identify and punish the perpetrators of these crimes. As the IACHR and its Office of the Special Rapporteur have repeatedly stated, it is essential that the State fully, effectively, and impartially investigate the murders of journalists, clarify their motives, and judicially determine the relationship they may have to journalistic activity and freedom of expression. Authorities should not rule out the practice of journalism as a motive for the murder and/or assault before the investigation is completed. The omission of logical lines of investigation or the lack of diligence in the collection of evidence in this regard can have serious repercussions on the development of the processes in the stages of indictment or trial. Not having completely exhausted the logical lines of investigation entails, above all, that the intellectual authors cannot be identified.

1006. **Attacks and aggressions committed against journalists and against the press violate the right to freedom of expression both in its individual and collective dimensions and cannot be tolerated in a democratic society.** The Office of the Special Rapporteur reminds that Principle 9 of the Declaration of Principles on Freedom of Expression of the IACHR states that “[t]he murder, kidnapping, intimidation of, and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of States to prevent and investigate such occurrences, to punish their perpetrators, and to ensure that victims receive due compensation.” Likewise, the Office of the Special Rapporteur reiterates to the State the importance of combating violence against journalists through a comprehensive policy of prevention, protection, and prosecution. This last obligation includes the duty to investigate, prosecute, and criminally convict all those responsible for these crimes and make comprehensive reparations to the victims. These obligations complement each other to guarantee the existence of a free, robust, and unrestricted democratic debate.¹⁶⁵⁰

1007. **Public authorities are called upon to maintain a speech favorable to public deliberation and freedom of expression.** The Office of the Special Rapporteur reiterates that public officials have the duty to

¹⁶⁴⁸ MVS Noticias. November 12, 2020. [Ubican a México como el país más peligroso para ejercer el periodismo.](#)

¹⁶⁴⁹ Committee to Protect Journalists (CPJ). April 20, 2020. [In Mexico, reporters covering COVID-19 face equipment shortages and government obstruction](#); Knight Center for Journalism in the Americas. April 16, 2020. [Coronavirus impacts finances of Latin American newspapers, which suspend print editions, reduce salaries and layoff journalists](#) <https://latamjournalismreview.org/es/articles/pandemia-de-covid-19-afecta-a-diarios-latinoamericanos-que-suspenden-ediciones-impresas-reducen-salarios-y-despiden-periodistas/>.

¹⁶⁵⁰ IACHR. Office of the Special Rapporteur for Freedom of Expression. [Annual Report 2013. Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter III (Violence Against Journalists and Media Workers). OEA/Ser.L/V/II.149. Doc. 50. December 31, 2013. Par. 31; IACHR. [Annual Report 2016. Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter IV. (Silenced zones: Highly dangerous areas for the exercise of freedom of expression). OEA/Ser.L/V/II.Doc. 22/17., March 15, 2017.

ensure that their statements are not infringing on the rights of those who contribute to public deliberation by expressing and disseminating their thoughts, such as journalists, the media, and human rights organizations, and they must be aware of the context in which they express themselves. According to the Inter-American Court of Human Rights, these types of statements made by public officials could constitute an indirect restriction on the right to freedom of expression.¹⁶⁵¹

1008. Social protest, which includes the rights to peaceful assembly without arms, association, and freedom of expression, is a fundamental tool in the defense of democracy and human rights. In this sense, it has been indicated that "the criminalization in itself of demonstrations in public streets when they are carried out within the framework of the right to freedom of expression and the right to assembly is, in principle, inadmissible".¹⁶⁵² Furthermore, the IACHR has understood that the use of force constitutes "a last resort that, qualitatively and quantitatively limited, seeks to prevent an event of greater gravity than the one provoked by the State's reaction. Within this framework characterized by exceptionality, both the Commission and the Inter-American Court have agreed that, for the use of force to be justified, the principles of legality, absolute necessity, and proportionality must be met".¹⁶⁵³

1009. Inter-American human rights standards impose special responsibility on public officials when speaking on matters of public interest. The Resolution on Pandemic and Human Rights issued by the IACHR highlights that "in the current circumstances it is a duty for state authorities to inform the population, and when speaking on the matter, they must act diligently and have a reasonable scientific basis."¹⁶⁵⁴

1010. The fear of criminal sanctions necessarily discourages and inhibits citizens from expressing themselves on matters of public interest. The Office of the Special Rapporteur recalls that Article 13.2 of the American Convention provides for the possibility of establishing restrictions on freedom of thought and expression through the application of subsequent liabilities for the abusive exercise of this right. In this sense, although whoever spreads false information knowing that it is false and causes damage may be subject to reproach, this should preferably be through the exercise of the right of rectification or response or, in the event that the damage produced is serious, through provided civil liabilities. Likewise, the Inter-American Court has indicated that criminal law is the most restrictive and severe means to establish liabilities regarding illegal conduct.

NICARAGUA

1011. Throughout 2020, the Nicaraguan government maintained a hostile climate towards the exercise of freedom of expression and access to public information in the country, through repressive actions that directly restricted these rights. Among the attacks on journalists and independent media, there were recurrent stigmatizing speeches by high-ranking authorities, numerous criminal cases against journalists, harassment of journalists and the media, threats and physical attacks, among others. Likewise, the Office of the Special Rapporteur notes with concern that congress approved regressive and restrictive regulatory frameworks, which directly threaten the exercise of freedom of expression by citizens and journalists and

¹⁶⁵¹ I/A Court H. R. [Case Ríos et al v. Venezuela. Preliminary Objections, Merits, Reparations and Costs](#). Judgment of January 28, 2009. Serie C No.194. Par. 139.

¹⁶⁵² IACHR. [Report on Citizen Security and Human Rights](#). OEA/Ser.L/V/II.Doc. 57. December 31, 2009. Par. 197

¹⁶⁵³ IACHR. [Annual Report 2015. Office of the Special Rapporteur for Freedom of Expression](#). Chapter IV A. OEA/Ser. L/V/II. Doc. 48. December 31, 2015. par. 7.

¹⁶⁵⁴ IACHR. Resolution No. 1/20. [Pandemic and Human Rights in the Americas](#). April 10, 2020. P. 14.

against the survival of independent media. Finally, in the context of the pandemic, this Office became aware of a very serious lack of transparency, which has prevented obtaining accurate information on the situation of COVID-19 in Nicaragua, and which has led to the dismissal of at least 16 doctors who reportedly did not agree with the ruling party's speech.

A. Violence and attacks against journalists and the media

1012. According to information received by the IACHR and its Office of the Special Rapporteur, during 2020 there was an increase in attacks against journalists and the media. The Violeta Barrios de Chamorro Foundation (FVBCH) recorded at least 338 cases of press freedom violations between January and November 2020.¹⁶⁵⁵ For its part, the Nicaraguan Independent Journalists and Communicators Movement (PCIN) registered 351 crimes against press freedom between March 1 and July 15¹⁶⁵⁶, and 943 between July 15 and December 15.¹⁶⁵⁷ According to the FVBCH, at least 50 journalists remain in exile.¹⁶⁵⁸

1013. According to the information available, different media have been repeatedly besieged by the National Police. On January 20, around 30 officers besieged *Radio Corporación's* facilities, and photographed its journalists and guests¹⁶⁵⁹. In the same way, Aníbal Toruño, director of *Radio Darío*, denounced on June 6, 8, and 9 the presence of police patrols and riot control agents in the surroundings of the media's facilities, who had taken photographs of the vehicles and security cameras¹⁶⁶⁰. Between July 25 and 27, the facilities of *Radio Darío* were once again besieged by the police and riot police, who hijacked two vehicles belonging to collaborators of the media¹⁶⁶¹. Likewise, Aníbal Toruño denounced situations of harassment to the facilities of the media on August 17¹⁶⁶² and 22¹⁶⁶³, September 12¹⁶⁶⁴ and December 5¹⁶⁶⁵. On August 1, the newspaper *La Prensa* denounced that at least three police patrols and dozens of riot police were in the vicinity of its facilities "with a harassing attitude"¹⁶⁶⁶. That same day, patrols and armed agents remained in the vicinity of *Radio La Costeñísima* and the home of Kalúa Salazar, their press officer¹⁶⁶⁷. On September 15, two patrols and at least 15 police officers besieged the surroundings of the *Notimatv* television channel in Matagalpa.¹⁶⁶⁸ In turn, on December 3, police officers aboard two patrol cars besieged the facilities of *Radio Mi Voz*, according to the director and owner of the media, Álvaro Montalván.¹⁶⁶⁹ On December 10, anti-riot agents and at least

¹⁶⁵⁵ Fundación Violeta Barrios de Chamorro. Informe de violaciones a la libertad de prensa. [January-March 2020](#). [April-June 2020](#). [July 2020](#). [August 2020](#). [September 2020](#). [October 2020](#). [November 2020](#); Despacho 505. December 13, 2020. [338 ataques a la libertad de prensa en 2020, según la FVBCH](#).

¹⁶⁵⁶ Información Puntial Nicaragua. July 27, 2020. [PCIN reporta 351 agresiones a la libertad de prensa en Nicaragua](#); Despacho 505. July 27, 2020. [Denuncian escalada represiva contra periodistas en Nicaragua](#).

¹⁶⁵⁷ 100% Noticias. December 30, 2020. [Observatorio de Periodistas Independientes registra 943 agresiones a la libertad de prensa en 5 meses](#).

¹⁶⁵⁸ Fundación Violeta Barrios de Chamorro. October 17, 2020. [Periodista exiliada denuncia amenazas de muerte](#).

¹⁶⁵⁹ 100% Noticias. January 20, 2020. [Policía Orteguista asedia instalaciones de Radio Corporación](#); Radio Corporación / Youtube. [January 20, 2020](#).

¹⁶⁶⁰ Twitter account of Aníbal Toruño (@AnibalToruno). [June 6, 2020](#), [June 8, 2020](#) and [June 9, 2020](#); Despacho 505. June 6, 2020. [Policía Orteguista asedia instalaciones de Radio Darío, en León](#); Fundación Violeta Barrios de Chamorro. June 8, 2020. [En medio de Covid19 continúa represión a periodistas independientes](#); Radio Corporación. June 6, 2020. [Policía retoma asedio contra Radio Darío en León](#).

¹⁶⁶¹ Twitter account of Aníbal Toruño (@AnibalToruno). [July 26, 2020](#) and [July 27, 2020](#); La Prensa. July 26, 2020. [Policía Orteguista y antimotines asedian instalaciones de radio Darío, en León](#); Artículo 66. July 26, 2020. [Fidel Domínguez dirigió "nuevo asedio" de más de nueve horas contra Radio Darío](#); Artículo 66. July 27, 2020. [Tercer día consecutivo de asedio policial contra Radio Darío, en León](#); 100% Noticias. July 26, 2020. [Continúa asedio e intimidación contra Radio Darío en León](#); Fundación Violeta Barrios de Chamorro. July 25, 2020. [Policías asedian y secuestran vehículos de Radio Darío](#).

¹⁶⁶² Twitter account of Aníbal Toruño (@AnibalToruno). [August 17, 2020](#); Artículo 66. August 17, 2020. [Director de Radio Darío, en León, denuncia nuevo asedio policial contra la emisora](#).

¹⁶⁶³ Twitter account of Radio Darío (@RadioDarioNi). [August 22, 2020](#).

¹⁶⁶⁴ Twitter account of Aníbal Toruño (@AnibalToruno). [September 12, 2020](#); 100% Noticias. September 12, 2020. [Aníbal Toruño denuncia asedio policial en Radio Darío](#).

¹⁶⁶⁵ Twitter account of Radio Darío (@RadioDarioNi). [December 5, 2020](#).

¹⁶⁶⁶ La Prensa. August 1, 2020. [Policía asedia al Diario La Prensa y se toma la Catedral un día después del ataque a la capilla de la Sangre de Cristo](#); 100% Noticias. August 1, 2020. [Sancionada Policía sandinista asedia al Diario La Prensa y Radio La Costeñísima](#).

¹⁶⁶⁷ Artículo 66. August 1, 2020. [Policía asedia Radio La Costeñísima y la casa de su jefa de prensa](#); 100% Noticias. August 1, 2020. [Sancionada Policía sandinista asedia al Diario La Prensa y Radio La Costeñísima](#).

¹⁶⁶⁸ Artículo 66. September 15, 2020. [Policía de Ortega cerca el canal de televisión Notimat, de Matagalpa](#); Notimat. September 16, 2020. [Asedio a Canal Notimatv](#).

¹⁶⁶⁹ Mi Voz Nicaragua / Facebook. [December 3, 2020](#); Fundación Violeta Barrios de Chamorro. December 4, 2020. [Periodista Álvaro Montalván denuncia asedio policial contra Radio Mi Voz, de León](#).

three police patrols once again surrounded the facilities of the newspaper *La Prensa* with a harassing attitude.¹⁶⁷⁰

1014. Likewise, the Office of the Special Rapporteur has registered a siege in the homes of journalists in 2020. On June 7, the independent journalist Gerall Chavez, who is in exile in Costa Rica, denounced the presence of police patrols outside his family's home and stated that it was an intimidating action for having initiated a campaign of collection and delivery of hygienic kits to prevent the spread of COVID-19.¹⁶⁷¹ Similarly, on June 22, around 20 police officers were installed in front of the home of journalist Carlos Eddy Monterrey, a beneficiary of precautionary measures, while he was working on radio *La Costeñísima*¹⁶⁷². Likewise, journalist Ileana Lacayo denounced that between September 11 and 14, her home was besieged by police patrols.¹⁶⁷³ On the other hand, the photojournalist Frank Cortez was the victim of a police siege between Tuesday 20 and 23 October at his home. Cortez affirmed that he was under "house arrest" since they had not allowed him to leave his home, but that no court order had been presented to him.¹⁶⁷⁴ On November 6, police patrols besieged the homes of journalist Carlos Eddy Monterrey and journalists Kalúa Salazar, and Ileana Lacayo Ortiz.¹⁶⁷⁵ The home of journalist Kalúa Salazar was also besieged on November 20 and December 6.¹⁶⁷⁶ Similarly, journalist Josué Garay denounced that on December 7, a patrol and two motorized vehicles set up in front of her house for more than three hours to besiege him.¹⁶⁷⁷

1015. On January 22, the journalist Joseling Rojas and the cameraman Ronald Reyes from Channel 10 were insulted, photographed, and held for 30 minutes by police officers, when they were in Nagarote, León, covering a complaint.¹⁶⁷⁸ The following day, the journalist from the same channel Wilih Narváez was attacked (kicked and pushed) by a group of riot police while he was covering an event at the Hotel Maracas, in Managua.¹⁶⁷⁹

1016. On January 30, the independent journalist from *Boletín Ecológico* David Quintana and a *Canal 10* cameraman were pushed and expelled from the Ministry of the Interior building, while covering a petition made by the Permanent Commission on Human Rights.¹⁶⁸⁰

1017. On March 3, as part of the coverage of the mass in honor of the poet Ernesto Cardenal in the Cathedral of Managua, the journalist Leonor Álvarez, from *La Prensa*, the journalist Hans Lawrence, from *Nicaragua Investiga*, and David Quintana, from *Boletín Ecológico*, were insulted, threatened, physically attacked, and stripped of their equipment by people who reportedly sympathized with the government.

¹⁶⁷⁰ La Prensa. December 10, 2020. [LA PRENSA bajo sitio policial en el Día Internacional de los Derechos Humanos](#).

¹⁶⁷¹ 100% Noticias. June 7, 2020. [Casa del periodista Gerall Chávez amaneció sitiada por la sancionada Policía sandinista](#); Despacho 505. June 13, 2020. [Comisionado orteguista amenaza con encarcelar al periodista Gerall Chávez](#); Fundación Violeta Barrios de Chamorro. June 8, 2020. [En medio de Covid19 continúa represión a periodistas independientes](#).

¹⁶⁷² 100% Noticias. June 22, 2020. [Sanciona policía sandinista asedia casa de habitación del periodista Carlos Eddy Monterrey en Bluefields](#); Nicaragua Investiga. June 22, 2020. [Policía Nacional asedia a periodista y opositores en Bluefields](#); La Costeñísima. June 22, 2020. [Periodista Carlos Eddy Monterrey denuncia asedio policial](#).

¹⁶⁷³ La Costeñísima/Facebook. September 12, 2020. [Asedio policial a periodista Ileana Lacayo en Bluefields](#); Artículo 66. September 12, 2020. [Segundo día de asedio paramilitar y policial a opositores y periodistas de Nicaragua](#); Fundación Violeta Barrios de Chamorro. [Informe de violaciones a la libertad de prensa](#). September 2020. P. 14.

¹⁶⁷⁴ La Prensa. October 20, 2020. [Policía Orteguista ahora bloquea las puertas de las casas de los opositores](#); 100% Noticias. October 23, 2020. [Fotoperiodista Frank Cortez denuncia estar en casa por cárcel sin haber ninguna orden judicial](#); Fundación Violeta Barrios de Chamorro. October 21, 2020. [Policía de Nicaragua asedia vivienda de periodista jubilado](#).

¹⁶⁷⁵ La Costeñísima. November 6, 2020. [Se intensifica el asedio policial a periodistas](#); Fundación Violeta Barrios de Chamorro. Informe de violaciones a la libertad de prensa. [November 2020](#).

¹⁶⁷⁶ Twitter account of Fundación Violeta Barrios de Chamorro (@FundVioleta). [November 20, 2020](#) and [December 7, 2020](#).

¹⁶⁷⁷ Twitter account of Josué Garay (@SoyJosueGaray). [December 7, 2020](#); Twitter account of Fundación Violeta Barrios de Chamorro (@FundVioleta). [December 7, 2020](#).

¹⁶⁷⁸ La Lupa. January 23, 2020. [Policía orteguista golpea al periodista Wilih Narváez del Canal 10](#); Fundamedios. January 24, 2020. [Dos periodistas y un camarógrafo de Canal 10 fueron agredidos por la Policía nicaragüense](#); Twitter account of Nicaragua Actual (@NicaraguaActual). [January 22, 2020](#).

¹⁶⁷⁹ La Lupa. January 23, 2020. [Policía orteguista golpea al periodista Wilih Narváez del Canal 10](#); Fundamedios. January 24, 2020. [Dos periodistas y un camarógrafo de Canal 10 fueron agredidos por la Policía nicaragüense](#); La Prensa. January 23, 2020. [Antimotines agreden al periodista de Canal 10 Wilih Narváez](#); Twitter account of Gerall Chávez. [January 23, 2020](#); Despacho 505. January 23, 2020. [Cenidh condena agresión policial contra periodista de Canal 10](#).

¹⁶⁸⁰ 100% Noticias. January 30, 2020. [Agresiones a prensa independiente continúa en Nicaragua](#); Artículo 66/Facebook. January 30, 2020. [Guardas de seguridad sacaron a empujones del edificio público del Ministerio de Gobernación al periodista David Quintana y a un camarógrafo del Canal 10](#); Colectivo de Derechos Humanos Nicaragua Nunca +. April 29, 2020. [Boletín No. 07: Deterioro de los Derechos Humanos en Nicaragua - Periodistas](#).

Quintana and Lawrence were reportedly admitted to a private hospital after the attack, the latter having re-admitted days later due to health complications that would be related to the beatings they received.¹⁶⁸¹ In turn, Arnaldo Arita, from *CNN*, and Roberto Fletes, from *Univisión*, were also reportedly stripped of their equipment.¹⁶⁸² On that occasion, the IACHR and its Office of the Special Rapporteur condemned the violence by civilian supporters of the government and urged the State of Nicaragua to restore freedom of assembly, religion, press, and expression.¹⁶⁸³

1018. On March 8, the reporter Nayel Martínez and the driver Eddy Dávila, a journalistic team for the newspaper *La Prensa*, were detained by police officers in Boaco, who searched their documentation and belongings, and took photographs of them.¹⁶⁸⁴

1019. On April 3, a group of independent journalists were prevented from entering the National Assembly, when a tribute was held to the Secretary of Foreign Affairs Jacinto Suárez. The journalists, who were accredited, were members of the journalistic teams of *Canal 1*, *Canal 12*, *Efe*, *CNN*, and *Voz de América*.¹⁶⁸⁵

1020. On the other hand, several women journalists have received threats through social networks from people related to the Nicaraguan government. The Mesoamerican Initiative of Women Human Rights Defenders alerted on April 6 about the complaints they received from Nicaraguan women journalists about various attacks they received due to the exercise of their profession, which would include "smear campaigns, signaling out, and hate speech" through social media and explicit threats of sexual violence.¹⁶⁸⁶ On March 7, journalist Jennifer Ortiz, director of *Nicaragua Investiga*, posted on her Twitter the death threats she had received in recent days, as a result of her complaints about attacks on other journalists.¹⁶⁸⁷ Likewise, on February 25, Aminta Ramírez, presenter of *Canal 10*, received a threat while she was carrying out a live broadcast in which she criticized the actions of the Police.¹⁶⁸⁸

1021. Attacks on journalists have in some cases included attacks on their families. The journalist Winston Potosme, who is in exile in the United States, denounced that in the early morning of April 16, supporters of the government had gone to his father's house and had physically attacked and seriously injured him, and then sent threats to the journalist through his father's cell phone.¹⁶⁸⁹ The IACHR and its Office of the Special Rapporteur condemned this attack and recalled that the State has the duty to prevent and investigate these events, punish the perpetrators, and ensure an adequate reparation for the victims.¹⁶⁹⁰

1022. On April 19, police agents raided the house of cameraman Denis Alanís Dormus of the *Notimatv* channel, in Pantasma, without a warrant. Alanís, who had already been threatened on previous occasions, was reportedly detained for at least four days.¹⁶⁹¹ On June 17, the IACHR granted precautionary measures in favor of Eduardo Walter Montenegro Chavarría, his family members, and the *Notimatv* journalistic team, including

¹⁶⁸¹ Despacho 505. March 11, 2020. [Periodista atacado por turbas orteguistas continúa grave](#); 100% Noticias. March 13, 2020. [Reportero de Nicaragua Investiga sale del hospital bajo tratamiento médico tras golpiza de turbas sandinistas](#); *La Prensa*. March 12, 2020. [Golpiza de turbas orteguistas afectan los riñones del periodista Hans Lawrence](#).

¹⁶⁸² *La Prensa*. March 3, 2020. [Turbas orteguistas agreden y roban a periodistas que cubrían misa de Ernesto Cardenal](#); VOA Noticias. March 3, 2020. [Periodistas agredidos y asaltados en Managua durante sepelio del poeta Ernesto Cardenal](#); Artículo 66. March 4, 2020. [Periodista David Quintana denuncia agresión de la que fue víctima por parte de turba orteguista](#).

¹⁶⁸³ Twitter account of IACHR (@CIDH). [March 4, 2020](#)

¹⁶⁸⁴ Voces del Sur. March 8, 2020. [Retienen y requisan a equipo de La Prensa en Boaco](#); *La Prensa*. March 8, 2020. [Policías retienen, requisan y toman fotografías a un equipo periodístico de La Prensa en Boaco](#).

¹⁶⁸⁵ *Nicaragua Investiga*. April 3, 2020. [Policía bloquea ingreso a la Asamblea Nacional a medios independientes](#); Twitter account of Fundación Violeta Barrios de Chamorro (@FundVioleta). [April 4, 2020](#).

¹⁶⁸⁶ Iniciativa Mesoamericana de Mujeres Defensoras de Derechos Humanos. April 6, 2020. [#AlertaUrgente NICARAGUA / Afines al gobierno atacan a mujeres periodistas con campañas de desprestigio, discurso de odio y amenazas de violencia sexual](#).

¹⁶⁸⁷ Twitter account of Jennifer Ortiz (@ortizperiodisa). [March 7, 2020](#); 100% Noticias. March 7, 2020. [Fanáticos sandinistas amenazan a periodista Jennifer Ortiz, directora de Nicaragua Investiga](#).

¹⁶⁸⁸ Artículo 66. February 27, 2020. [Turbero orteguista amenaza "con meterle una estaca" a la presentadora de canal 10 Aminta Ramírez](#); Stereo Romance. February 28, 2020. ["Una estaca te vamos a meter", escribió un fanático gubernamental a periodista Aminta Ramírez](#).

¹⁶⁸⁹ Despacho 505. April 16, 2020. [Turbas orteguistas golpean brutalmente a padre del periodista Winston Potosme](#); *La Prensa*. April 16, 2020. [Agreden salvajemente al papá del periodista Winston Potosme en Niquinohomo](#); 100% Noticias. April 17, 2020. [Periodista Winston Potosme: el ataque a mi papá fue premeditado y con "saña" política](#).

¹⁶⁹⁰ Twitter account of IACHR (@cidh). [April 16, 2020](#).

¹⁶⁹¹ *La Lupa*. April 21, 2020. [Régimen recrudece el asedio y hostigamiento contra opositores en 6 días](#); Fundamedios. April 22, 2020. [Periodista nicaragüense cumple cuarto día detenido](#); 100% Noticias. April 19, 2020. [Sancionada Policía sandinista detiene al periodista Denis Alanís en Pantasma](#); Twitter account of Canal 12 Nicaragua (@canal12nica). [April 19, 2020](#).

Denis Alanís Dormus, and urged the Nicaraguan State to adopt the necessary measures to guarantee that they can carry out their journalistic work without being subjected to acts of intimidation, threats, or other acts of violence in the exercise of the same.¹⁶⁹²

1023. The IACHR and its Office of the Special Rapporteur have recorded various situations in which journalists were prevented from reporting on COVID-19. For example, on May 6, journalists Yasser Leiva and Marcelo Conde were detained and interrogated by intelligence police, when they were filming outside a public hospital in Managua.¹⁶⁹³

1024. On the other hand, on July 12, *Radio Corporación* reported that unidentified individuals had stolen the copper tapes that were found at the base of the AM transmission antenna, which caused the AM frequency to be off the air for several days.¹⁶⁹⁴ This had already occurred in September 2019, as reported by this Office of the Special Rapporteur in its last annual report¹⁶⁹⁵. Likewise, the community radio station *Radio Camoapa* denounced on September 5 an attempt to sabotage its transmission system, after they found damage to the air conditioning that is in the booth where they keep their equipment. The station was reportedly forced to go off the air, uninstall its equipment, and relocate it.¹⁶⁹⁶

1025. On June 24, the journalist from *Radio Única*, Suyen Sánchez, was attacked by the Chief Commissioner Valle Corea, while covering a murder in Bluefields. According to the information available, the Chief Commissioner reportedly pushed her and tried to take her cell phone away, preventing her from covering the event.¹⁶⁹⁷

1026. According to what was reported, on July 25, the aforementioned journalist, Gerall Chávez, received a death threat through a letter and a USB memory that was handed over to his relatives. The letter stated that when he returned to Nicaragua they were going to “cut out his tongue” and that they would also take it out on his family, while the video shows an animation of the journalist being beheaded. The journalist blamed “the Sandinista dictatorship” for having sent the threat.¹⁶⁹⁸

1027. On August 21 radio *La Costeñísima* reported that they had a power cut between 5:00 and 7:00 am, which prevented them from going on the air precisely at the time when the morning news program is broadcasted.¹⁶⁹⁹

1028. According to public information, Verónica Chávez of *100% Noticias* was seriously injured in Masaya on October 11, after a meeting of the National Coalition. Government supporters allegedly threw stones at the truck in which the journalist was with Miguel Mora, causing injuries to her head. On October 19, Miguel Mora

¹⁶⁹² IACHR. Resolución 27/2020. Medidas cautelares No. 399-20. [Eduardo Walter Montenegro Chavarría y otros respecto de Nicaragua](#). June 17, 2020.

¹⁶⁹³ 100% Noticias. May 11, 2020. [Periodistas nicaragüenses denuncian aumento de censura para reportar sobre COVID-19](#); República 18/Facebook. May 6, 2020. [Los periodistas nicaragüenses Yasser Leiva y Marcelo Conde, reporteros de la agencia Reuters, denuncian que han sido detenidos e interrogados por civiles, por grabar en las inmediaciones del hospital Manolo Morales de Managua](#); Fundación Violeta Barrios de Chamorro. [Informe de violaciones a la libertad de prensa](#). April-June 2020. P. 28.

¹⁶⁹⁴ Nicaragua Investiga. July 12, 2020. [Radio Corporación estará fuera del aire por una semana en su frecuencia AM](#); La Prensa. July 12, 2020. [Delincuentes sabotean antena de transmisión de Radio Corporación ubicada en Tipitapa](#); Artículo 66. July 12, 2020. [Sabotean las antenas de transmisión de Radio Corporación](#).

¹⁶⁹⁵ IACHR. [Annual Report 2019. Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter II (Evaluation of the State of Freedom of Expression in the Hemisphere). OEA/Ser.L/V/II. Doc. 5. February 24, 2020. Par. 940.

¹⁶⁹⁶ Radio Camoapa. September 5, 2020. [Sabotaje contra Radio Camoapa la tiene fuera del aire](#); Artículo 66. September 5, 2020. [Sabotaje saca del aire a Radio Camoapa](#).

¹⁶⁹⁷ Voces del Sur. July 24, 2020. [Comisionado Mayor de la policía agrede a periodista](#); Twitter account of Cenidh (@Cenidh). [July 27, 2020](#); La Prensa. July 26, 2020. [Periodismo en Nicaragua: entre amenazas de decapitación, llevarse dos vehículos de una radio e impedir cobertura](#).

¹⁶⁹⁸ Confidencial. July 25, 2020. [“Te vamos a cortar la lengua”: Periodista Gerall Chávez denuncia amenazas de muerte](#); Artículo 66. July 25, 2020. [“Ya tenés ganado un lugar en el panteón de El Rosario”, la amenaza de la dictadura en contra del periodista Gerald Chávez](#); Twitter account of Gerall Chávez (@GerallChavez). [July 25, 2020](#).

¹⁶⁹⁹ 100% Noticias. August 21, 2020. [Cortan luz a Radio La Costeñísima al momento de la emisión de noticias este viernes](#); La Prensa. August 31, 2020. [Hostigamiento a La Costeñísima no cesa: corte eléctrico la saca del aire por unas horas](#).

filed a complaint for attempted murder, serious injuries, abuse of authority, and failure to perform duties to the detriment of Verónica Chávez.¹⁷⁰⁰

1029. In turn, on October 17, journalist Maryórit Guevara, director of the digital medium *La Lupa*, who is in exile in Spain, denounced that her home in Managua was marked with the phrase “*ojo plomo*” [lead eye]. The journalist explained that this is a phrase used by government groups as a death threat, and that she has already been threatened in the past.¹⁷⁰¹ Similarly, on November 27, Eduardo Montenegro, director of *NotimaTv*, denounced that the media's facilities were painted with the word “*plomo*” [lead], which was captured by security cameras.¹⁷⁰²

1030. On October 27, the journalist Noel Miranda from *Artículo 66* denounced that he was reportedly threatened by police officers while he was covering the trial of tiktoker Kevin Monzón outside the Managua courts. According to the information available, the officers asked him about his work, took pictures of him, and told him to stop recording or “face the consequences”.¹⁷⁰³

1031. In the framework of the coverage of hurricanes Eta and Iota, the Office of the Special Rapporteur was informed of multiple restrictions on the practice of journalism. Marisol Balladares, reporter for *Radio Corporación*, was arbitrarily detained at 145 police checkpoints when she traveled from Managua to the North Caribbean on November 8 to deliver donations and document the situation of the people affected by Hurricane Eta, and upon arrival she was not allowed entrance to a shelter where the victims were. In addition, the journalist denounced that the cameraman Fernando Duván Rivera had been physically attacked by a shelter director while recording the conditions of a shelter.¹⁷⁰⁴ Likewise, on November 18, armed agents of the National Police prevented a group of independent journalists from covering the landslide caused by Hurricane Iota in the Peñas Blancas massif, Matagalpa, allowing only official media to enter. The agents allegedly intimidated, photographed, and expelled the journalists.¹⁷⁰⁵ The Office of the Special Rapporteur also received information on verbal and physical attacks by a State worker against the reporter Flor de Liz Ordóñez and the cameraman Exael Aristas from *NotimaTV* on November 19, who were covering the burial of three people who died in the mentioned landslide.¹⁷⁰⁶

1032. On the other hand, the Office of the Rapporteur received information on the decision of the director of *NotimaTV* Eduardo Montenegro and press officer Sandra Elena Martínez, beneficiaries of precautionary measures, to go into exile in the United States. The journalists reportedly left Nicaragua on December 11, together with their four children, as a result of the siege and threats they received.¹⁷⁰⁷

1033. This Office was informed about the attacks suffered by Carlos Fernando Chamorro, director of *Confidencial*, the media's journalistic team, and Vilma Núñez of the Nicaraguan Center for Human Rights

¹⁷⁰⁰ 100% Noticias. October 11, 2020. [Paramilitares agreden y hieren a Verónica Chávez de 100% Noticias en Masaya](#); Despacho 505. October 11, 2020. [Verónica Chávez resulta herida por turbas orteguistas protegidas por la Policía en Masaya](#); 100% Noticias. October 19, 2020. [Miguel Mora interpone denuncia por tentativa de asesinato a su esposa y periodista Verónica Chávez](#).

¹⁷⁰¹ Twitter account of Maryórit Guevara (@Maryoritgg). [October 17, 2020](#); 100% Noticias. October 17, 2020. [Periodista exiliada Maryórit Guevara denuncia amenazas de simpatizantes sandinistas](#); Despacho 505. October 17, 2020. [Marcan con la palabra “plomo” la casa de la periodista Maryórit Guevara en Managua](#).

¹⁷⁰² Twitter account of Notimatv (@notimatv). [November 27, 2020](#); Artículo 19. November 27, 2020. [Amenazan con darle “plomo” a equipo periodístico de Notimatv](#); 100% Noticias. November 27, 2020. [Periodista Eduardo Montenegro denuncia “ataque frontal” de fanáticos sandinistas a Notimatv](#).

¹⁷⁰³ 100% Noticias. October 27, 2020. [Periodista Noel Miranda es amenazado por oficial de la DOEP](#); Artículo 66. October 27, 2020. [Policía amenaza a periodista de Artículo 66](#).

¹⁷⁰⁴ Artículo 66. November 12, 2020. [Periodista es perseguida por intentar documentar situación de damnificados por Eta en el Caribe Norte](#); Radio Corporación. November 9, 2020. [Periodista de Radio Corporación denuncia vigilancia policial por ayudar a damnificados](#); IM Defensoras. November 12, 2020. [Con hostigamientos, persecución policial y múltiples restricciones para desarrollar su labor, vulneran el derecho a informar de la periodista Marisol Balladares sobre la situación de personas damnificadas por el huracán Eta](#); Fundación Violeta Barrios de Chamorro. Informe de violaciones a la libertad de prensa. [November 2020](#).

¹⁷⁰⁵ Nicaragua Investiga. November 19, 2020. [Medios oficiales, los únicos permitidos para informar sobre el deslave en Macizo de Peñas Blancas](#); Fundación Violeta Barrios de Chamorro. November 19, 2020. [Policías intimidan y expulsan a periodistas independientes que informaban sobre deslave causado por huracán Iota en Nicaragua](#).

¹⁷⁰⁶ La Prensa. November 19, 2020. [Orteguistas agreden a equipo periodístico de NotimaTv en cementerio de Peñas Blancas](#); Artículo 66. November 19, 2020. [Empleada estatal agrede a periodistas de Notimatv en el sepelio de víctimas del deslave](#); 100% Noticias. November 19, 2020. [Funcionarios sandinistas agreden a periodistas de NOTIMATV en entierro de familias víctimas del deslave en Macizo de Peñas Blancas](#).

¹⁷⁰⁷ La Prensa. December 30, 2020. [Los periodistas Eduardo Montenegro y Sandra Elena Martínez salen al exilio por amenazas de operadores del orteguismo](#); 100% Noticias. December 30, 2020. [Periodistas Eduardo Montenegro y Sandra Martínez se exilian con sus hijos en Estados Unidos](#).

(CENIDH) on December 14, while giving a press conference on the outskirts of the offices of the media, which were confiscated two years ago. According to the information available, the National Police set up a human cordon at the entrance to the offices and pushed them out¹⁷⁰⁸. The IACHR and its Office of the Special Rapporteur condemned this event and called on the Nicaraguan State to guarantee the exercise of freedom of expression.¹⁷⁰⁹

¹⁰³⁴. According to available information, on December 28, the León Police detained journalist Henry Blanco for more than 24 hours. This occurred after the radio host returned from Costa Rica, where he had been in exile since the beginning of 2019 as a result of the threats he had received for practicing his profession.¹⁷¹⁰

B. Subsequent liabilities

¹⁰³⁵. The IACHR and its Office of the Special Rapporteur have expressed their concern over the increase in judicial proceedings against journalists.¹⁷¹¹ On September 23, Judge Deyanira Traña, of the Bluefields Local Criminal Court, convicted journalist Kalúa Salazar, press officer of *La Costeñísima*, of the crime of slander, and sentenced her to pay a fine of 7,684 cordobas, equivalent to 120 working days. According to the information available, three former officials of the El Rama mayor's office reportedly filed a claim against the journalist after *La Costeñísima* denounced acts of corruption in said mayor's office. The oral and public trial was allegedly carried out with a strong presence of police agents and preventing access for journalists.¹⁷¹²

¹⁰³⁶. The journalist Elsa Espinoza, from the Executive Commission of Independent Journalists and Communicators of Nicaragua (PCIN) was reported for the crime of threats by her neighbor María del Pilar Vallejos, who reportedly is a government supporter. According to the journalist, her neighbor shouted at her "coup plotter and *tranquera*", physically attacked her, and then filed a complaint against her. Faced with this situation, the journalist reportedly changed her address. On September 21, the trial was held, in which the judge ruled in her favor. According to Espinoza, the trial was carried out with the aim of intimidating and silencing voices that make the regime uncomfortable.¹⁷¹³

¹⁰³⁷. Likewise, the journalist and director of the digital media *Boletín Ecológico*, David Quintana, was reported for slander and insults in July, after he interviewed a family that had been evicted. The complaint was presented to the Fifth Criminal Court of Managua by Nelson Enrique Oporta, a former *Canal 8* cameraman, and his wife Junieth Dávila Cruz, who are now occupying the property that was evicted. According to available information, the initial hearing was scheduled for July 30 and then postponed to August 11, while the official notification to the journalist only occurred on November 6. On November 24, the Court admitted the accusation, sent the journalist to an oral and public trial, and applied an immigration restriction and the obligation to appear every two weeks before the court. The hearing was reportedly scheduled for December 18, and then postponed to January 15, 2021.¹⁷¹⁴

¹⁷⁰⁸ Nicaragua Investiga. December 14, 2020. [Antimotines agreden a Carlos Fernando Chamorro](#); La Prensa. December 14, 2020. [Policía Orteguista agrede a periodistas y activistas en conferencia de prensa sobre asalto a Confidencial](#); 100% Noticias. December 14, 2020. [Antimotines sacan a empujones a Carlos Fernando Chamorro, su esposa y periodistas de redacción confiscada de Confidencial](#).

¹⁷⁰⁹ Twitter account of IACHR (@cidh). [December 14, 2020](#).

¹⁷¹⁰ Radio Darío. December 29, 2020. [Policía secuestra a Henry Blanco, ex trabajador de Radio Darío que regresó del exilio](#); Artículo 66. December 29, 2020. [Locutor de Radio Darío secuestrado y liberado bajo amenazas por la Policía de León](#); Confidencial. December 29, 2020. [Policía Nacional continúa con detenciones ilegales de opositores](#).

¹⁷¹¹ IACHR. Office of the Special Rapporteur for Freedom of Expression. October 7, 2020. [Press release R246/20 The IACHR and its Office of the Special Rapporteur for Freedom of Expression express concern about new legal threats to freedom of expression and indirect measures against the media and journalists in Nicaragua](#).

¹⁷¹² 100% Noticias. September 23, 2020. [Declaran culpable por calumnias a periodista Kalúa Salazar](#); Despacho 505. September 23, 2020. [Periodista de La Costeñísima, Kalúa Salazar, es declarada culpable por calumnias](#); Confidencial. September 29, 2020. [Jueza orteguista impone 120 días de multa a la periodista Kalúa Salazar](#).

¹⁷¹³ Fundación Violeta Barrios de Chamorro. [Informe de violaciones a la libertad de prensa](#). September 2020. P. 25; Confidencial. September 22, 2020. [Inician juicios contra periodistas nicaragüenses Elsa Espinoza y Kalúa Salazar](#); La Prensa. August 30, 2020. [¿Quiénes son los periodistas judicializados? Conozca sus historias](#).

¹⁷¹⁴ 100% Noticias. August 17, 2020. [Camarógrafo sandinista acusa por calumnias al periodista David Quintana](#); Artículo 66. August 17, 2020. [Acusan por "injurias y calumnias" al periodista David Quintana, de Boletín Ecológico](#); 100% Noticias. November 24, 2020. [Admiten acusación, mandan a juicio y giran retención migratoria contra periodista David Quintana](#); 100% Noticias. December 18, 2020. [Reprograman juicio del periodista David Quintana para el 15 de enero](#).

1038. According to available information, William Aragón, a former correspondent for *La Prensa* and a member of the board of the Independent Journalists and Communicators of Nicaragua, is reportedly facing a process for libel and slander, accused of having affirmed that a citizen died from COVID-19. The journalist pointed out that it was fabricated information and that he never mentioned anything about it.¹⁷¹⁵

1039. Journalist Sergio León was accused of the crime of slander and insults by the citizen Juana Álvarez Mayoga, after the program "Tras la Noticia" of *Radio La Costeñísima* released the statements of a mayor who had expressed concern over the death of two people suspected of COVID-19. The journalist was summoned on May 28 to the Directorate for Alternate Conflict Resolution (Dirac) of Bluefields and requested a rescheduling of the appointment. Sergio León died on June 14, with symptoms of coronavirus.¹⁷¹⁶

1040. On the other hand, this Office was informed that Kevin Monzón, who publishes messages against corruption and complaints of human rights violations on the social network Tik Tok, was detained three times between August 2019 and December 2020. The Tik-Toker was detained between July 31 and August 9, and a trial was initiated for the crime of threats with weapons, in which he was found not guilty on November 18. The last detention took place between December 16 and December 22; Kevin Monzón reported that he was beaten and threatened by a General Commissioner of the Police.¹⁷¹⁷

C. Stigmatizing statements

1041. This Office has registered multiple stigmatizing statements against the press by senior public officials. The government published on May 25 a document called "To the people of Nicaragua and to the world, report on COVID-19 and a singular strategy-White Book", in which they accused the media of carrying out "informational terrorism" that was reportedly "conceived in the United States." They also affirmed that there is a "massive disinformation campaign" in Nicaragua, and that opponents "have seen the pandemic as a great opportunity to scare and misinform the population".¹⁷¹⁸

1042. On May 13, Rosario Murillo accused the media of "creating fear and hatred pandemics, with false news" and described them as having "small brains" and "deviled souls".¹⁷¹⁹ Similarly, on August 21, she referred to journalists and the media as "forces of darkness".¹⁷²⁰ Also, on October 21, she accused the international press of being "means of international defamation" that "serve to distract and slander." This, affirming that these media would give a voice to people opposed to the government, whom she considered as "faces disfigured by hatred".¹⁷²¹

1043. On the other hand, in the context of the debate on a reform to the General Water Law on November 12, Congress representative Wálmaro Gutiérrez accused a newspaper of "slandering, insulting, misrepresenting" and "carrying out sewer journalism".¹⁷²² Likewise, during a ceremony to deliver credentials to ambassadors held on December 15, Daniel Ortega assured that certain television programs and newspapers say "any falsehood" and "invent anything", and affirmed that "it is no longer freedom of expression but debauchery".¹⁷²³

¹⁷¹⁵ Voa Noticias. June 16, 2020. [Nicaragua: denuncian procesos a periodistas que reportan sobre COVID-19](#); Confidencial. August 23, 2020. [Régimen en "ofensiva coordinada" contra cuatro periodistas](#).

¹⁷¹⁶ Voces del Sur. May 28, 2020. [Director de Radio La Costeñísima es acusado por injurias y calumnias](#); La Prensa. May 28, 2020. [Citan a periodista Sergio León a mediación por reportar situación del Covid-19](#); Despacho 505. June 14, 2020. [Fallece el periodista Sergio León, fundador de radio La Costeñísima](#).

¹⁷¹⁷ Confidencial. December 21, de 2020. ["Tik-toker" Kevin Monzón, detenido por tercera vez en dos años](#); 100% Noticias. December 27, 2020. [Tiktoker Kevin Monzón denuncia a Comisionado Jaime Vanegas por torturarlo en la cárcel](#).

¹⁷¹⁸ Despacho 505. May 25, 2020. [Libro Blanco de Rosario Murillo sobre Covid-19 es un ataque a medios de comunicación](#); Confidencial. May 25, 2020. [Las mentiras del Gobierno en el "Libro Blanco" sobre la covid-19](#).

¹⁷¹⁹ Despacho 505. May 13, 2020. ["Almas endemoniadas" y "cerebros pequeñitos", Murillo arremete contra la prensa independiente](#); La Lupa. May 13, 2020. [Rosario Murillo despotrica contra periodistas y medios independientes](#).

¹⁷²⁰ Artículo 66. August 21, 2020. [Rosario Murillo califica de "fuerzas de las tinieblas" a periodistas y medios de comunicación](#).

¹⁷²¹ Despacho 505. October 21, 2020. [Murillo ataca a la prensa internacional: "Son medios de difamación"](#); Nicaragua Actual/You Tube. October 21, 2020. [Murillo arremete contra la Prensa Internacional que no comparte su discurso](#).

¹⁷²² 100% Noticias. November 12, 2020. [Aprueban reforma a Ley General de Aguas, diputado sandinista arremetió contra COSEP y La Prensa](#); La Prensa. November 12, 2020. [Diputados orteguistas aprueban reforma a Ley General de Aguas](#).

¹⁷²³ 100% Noticias. December 16, 2020. [Daniel Ortega niega masacre del 2018 y censura a medios independientes](#); Confidencial. December 16, 2020. [Ortega niega la matanza de 2018 ante nuevos embajadores](#); Radio Corporación. December 16, 2020. [Libertad de prensa no es hablar a favor de Ortega: Presidente de la APN](#).

D. Political control and undue interference in the media

1044. On October 15, the *Foreign Agents Regulation Law* was approved, which obligates natural or legal persons that receive funds directly or indirectly from foreign governments, agencies, foundations, companies, or associations to register as "foreign agents." This entails the obligation to present reports, and the impossibility of intervening in matters of internal politics and of "being civil servants, public employees, or candidates for public office." Finally, it provides for the possibility of establishing, in the event of non-compliance, fines, cancellation of legal personality, criminal liability for the commission of crimes against the security of the State, and even the seizure of movable and immovable property and the prohibition of activities.¹⁷²⁴

1045. In this sense, the regulation could seriously affect the exercise of freedom of expression and the survival of various independent media in Nicaragua, which receive funds from international cooperation. This occurs in a context of human rights crisis, in which these media are excluded from accessing government advertising and suffer various restrictions from the State. This Office received information about the filing of unconstitutionality actions by various civil society organizations.¹⁷²⁵

1046. The Office of the Special Rapporteur notes with concern that the equipment and facilities of *Confidencial*, *Niú*, *Esta Semana* and *Esta Noche*, and *100% Noticias* have been confiscated since December 2018. Although on January 9, a magistrate of the Supreme Court of Justice declared that there would be a draft judgment on the confiscated media and that it would come out "soon"¹⁷²⁶, the Court has not yet resolved the *amparo* writs filed. According to the information available, on December 23, posters were placed in the offices of the *100% Noticias* and *Confidencial* media, informing them that the properties belong to the Ministry of Health. This, according to the journalists affected, constitutes a *de facto* confiscation since the Supreme Court ruling has not yet been issued.¹⁷²⁷

1047. Likewise, as has been pointed out by this Office in its latest reports, in Nicaragua there is a duopoly of television and radio communication media, where the majority of the communication media are under the political control of the presidential family or of a government-related businessman.

E. Censorship

1048. According to available information, in February the General Directorate of Customs (DGA) authorized the return of the raw material of the newspaper *La Prensa*, which was held at customs for 75 weeks.¹⁷²⁸ As reported by this Office of the Special Rapporteur in its 2019 annual report, in the face of the customs blockade, *La Prensa* had been forced to reduce its number of pages, modify its format, and had a reduced number of journalists.¹⁷²⁹ In the letter sent to Nicaragua in May, this Office, together with UN Special Rapporteurs, expressed their concern about this situation.

1049. This Office of the Special Rapporteur was informed of an embargo on Nicavisión S.A., the company that owns *Canal 12*, for an alleged tax debt of 21 million cordobas. According to the information available, on September 11, the Third Judge of Execution and Embargoes of the Municipality of Managua appeared in the central studies of *Canal 12* to proceed to seize their assets, due to a direct request from the General Directorate of Revenues ("DGI"). The seized assets would include a bank account, a television antenna, and

¹⁷²⁴ Voa Noticias. October 16, 2020. [Nicaragua: Aprueban polémica Ley de Agentes Extranjeros](#); Artículo 66. October 15, 2020. [Diputados orteguistas aprobaron sin discutir ni analizar los artículos de la Ley de Agentes Extranjeros](#).

¹⁷²⁵ Artículo 66. December 3, 2020. [Ley de Agentes Extranjeros suma cuatro recursos en su contra por inconstitucionalidad](#). Confidencial. December 9, 2020. [Más de 60 organizaciones se amparan ante Ley de Agentes Extranjeros](#); 100% Noticias. December 17, 2020. [Fundación Violeta Barrios de Chamorro interpone recurso por inconstitucionalidad "no somos traidores a la patria"](#).

¹⁷²⁶ 100% Noticias. January 9, 2020. [Magistrado sandinista dice que existe un proyecto de sentencia sobre medios confiscados: 100% Noticias y Confidencial](#); La Prensa/You Tube. January 9, 2020. [Magistrado orteguista habla sobre proyecto de sentencia a medios confiscados](#).

¹⁷²⁷ 100% Noticias. December 23, 2020. [Daniel Ortega oficializa robo de propiedades a sociedad civil y medios de comunicación confiscados en 2018](#); VOA Noticias. December 23, 2020. ["Confiscación de facto": propietarios de Confidencial y 100% Noticias denuncian nuevas acciones de Ortega](#); Confidencial. December 23, 2020. [Ortega oficializa la confiscación de CONFIDENCIAL y 100% Noticias](#).

¹⁷²⁸ Nicaragua Investiga. February 6, 2020. [Papel y tinta llegarán a La Prensa después de 75 semanas retenidos en Aduana](#); La Prensa. February 5, 2020. [Comunicado de la Junta Directiva de Editorial LA PRENSA](#).

¹⁷²⁹ IACHR. [Annual Report 2019. Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter II (Evaluation of the State of Freedom of Expression in the Hemisphere). OEA/Ser.L/V/II. Doc. 5. February 24, 2020. Par. 953.

other assets of *Canal 12*, as well as vehicles and properties of Mariano Valle, owner of Nicavisión S.A., and would greatly exceed the sum owed. Valle has affirmed that they do not owe the imposed amounts, that it is an unfair and arbitrary objection, and that it constitutes "an attempted confiscation".¹⁷³⁰ On September 16, Nicavisión submitted an opposition brief to challenge the embargo. However, on September 30, a hearing was held in which Judge Silvia Elena Chica Larios rejected the defenses presented by Nicavisión and established that it must pay the amount owed, which was appealed by the company on October 9.¹⁷³¹

1050. On the other hand, on October 4, *Canal 12* reported that the DGI imposed a new fiscal objection against them, which would amount to 6 million 800 thousand córdobas, and that on October 5 they presented an opposition appeal.¹⁷³² On November 23, an opposition hearing was held, in which the lawyer for *Canal 12* presented the evidence that would show that the fiscal objection is unjustified, which was declared inadmissible by Judge Silvia Elena Chica Larios, who dismissed the opposition appeal and ordered for the execution of the fiscal objection to continue.¹⁷³³

1051. Likewise, the DGI reportedly imposed an additional tax on *Canal 10* for 110 million cordobas¹⁷³⁴ and on *100% Noticias* for more than 7 million cordobas, corresponding to the period in which the media was confiscated.¹⁷³⁵ In this regard, the IACHR and its Office of the Special Rapporteur have expressed their concern on October 7 about the imposition of fiscal sanctions against the media.¹⁷³⁶

1052. On the other hand, the independent radio station *Stereo Romance* of Carazo reported on October 4 that, due to "the suffocating economic situation" and the lack of financial support, it was forced to reduce its informative offer, suspending the hourly micro news programs, *Noticias Romance*, and news posting on their website.¹⁷³⁷

F. Access to public information

1053. On May 27, the IACHR and its Special Rapporteurs (RFOE and ESCER) expressed grave concern over the lack of reliable information and the persistence of official misinformation about the scope of the COVID-19 pandemic in Nicaragua. The IACHR and its Special Offices have recorded that the information provided by the Nicaraguan government throughout the pandemic has been confusing, unspecific, and unreliable. This, given that medical terminology is not used, the numbers of infected, recovered, and deceased persons are not clearly established, and in some cases the origin of the infected persons is not mentioned.¹⁷³⁸

1054. The Office of the Special Rapporteur observes that since the beginning of the pandemic, several independent investigations have been carried out, which question the official figures. Indeed, the COVID-19 Citizen Observatory has reported a substantially higher number of confirmed cases and pointed out in August that the Ministry of Health would have hidden between 64% and 98% of positive cases.¹⁷³⁹ The Nicaraguan

¹⁷³⁰ Despacho 505. September 12, 2020. [Canal 12 confirma embargo de sus instalaciones y bienes de su propietario](#); Confidencial. September 15, 2020. [Mariano Valle: "Me quieren confiscar Canal 12"](#).

¹⁷³¹ La Prensa. September 16, 2020. [Abogados de Canal 12 recurren a los juzgados para pedir impugnar el embargo impuesto por la DGI](#); Confidencial. October 1, 2020. [Jueza orteguista mantiene embargo millonario a Canal 12 y amenaza con subasta](#).

¹⁷³² 100% Noticias. October 4, 2020. [DGI impone otro cobro fiscal a canal 12 de Nicaragua](#); La Prensa. October 6, 2020. [Abogado de Canal 12 interpone escrito de oposición y recusa a jueza que desestimó pruebas](#).

¹⁷³³ Canal 12. November 24, 2020. [Segundo fallo en contra de canal 12. Juez continúa invalidando pruebas](#); Artículo 66. November 24, 2020. [Bienes embargados de Canal 12 podrían ser subastados en las próximas semanas](#); 100% Noticias. November 24, 2020. [Jueza invalida pruebas que presentó canal 12 en el segundo juicio de embargo que entabló la Dirección General de Ingresos](#).

¹⁷³⁴ Nicaragua Investiga. September 12, 2020. [DGI ejecuta embargo contra Canal 12 y ordena reparo a Canal 10](#); Voa Noticias. September 12, 2020. [Gobierno de Ortega ordena embargo de canal televisivo de Nicaragua](#).

¹⁷³⁵ Twitter account of Miguel Mora (@MoraMiguel100). [September 5, 2020](#); La Prensa. September 5, 2020. [Gobierno le cobra 8 millones de córdobas a Miguel Mora por canal que le confiscaron](#).

¹⁷³⁶ IACHR. Office of the Special Rapporteur for Freedom of Expression. October 7, 2020. [Press release R246/20 The IACHR and its Office of the Special Rapporteur for Freedom of Expression express concern about new legal threats to freedom of expression and indirect measures against the media and journalists in Nicaragua](#).

¹⁷³⁷ Stereo Romance. October 3, 2020. [Comunicado oficial de suspensión multimedia](#); La Prensa. October 4, 2020. [Radio Stereo Romance dejará de publicar noticias en su sitio web por la "asfixiante situación económica"](#).

¹⁷³⁸ La Prensa. April 12, 2020. [Minsa esconde información del Covid-19 y también presenta datos confusos](#); Despacho 505. April 21, 2020. [Delicado, pero estable: Manipulación detrás del glosario del Minsa para el manejo del Covid-19](#).

¹⁷³⁹ Confidencial. April 26, 2020. [Registro independiente eleva a 316 los casos sospechosos de covid-19](#); Confidencial. April 24, 2020. [Aumentan denuncias de casos de covid-19 no reportados por el Minsa](#); La Prensa. April 23, 2020. [Especialistas dudan de las cifras del Minsa sobre Covid-19 en Nicaragua](#); Despacho 505. August 22, 2020. [Minsa oculta cifras de contagio del Covid-19 en Nicaragua denuncia el Observatorio Ciudadano](#).

Medical Association established through an analysis on excess mortality that the health authorities would have reported only 2% of deaths from Covid-19 as of August 31, taking into account that the data on excess mortality show 7,569 deaths, while the official data show only 155.¹⁷⁴⁰

1055. Likewise, the group “Anonymous” reportedly hacked the Ministry of Health (Minsa) on August 17 and leaked 400 files, which would reveal that the Minsa had hidden 6,245 positive cases of COVID-19 between March 18 and July 24.¹⁷⁴¹

1056. According to the information available, the Ministry of Health has suspended the publication of the epidemiological bulletin on its website on two occasions, which collects data on cases and deaths from endemic diseases in the country. The first time, the Minsa stopped publishing the bulletin for 7 weeks without giving explanations, and then published the report corresponding to the week of May 18-24. Since then, it has not shared the reports on its website again.¹⁷⁴²

1057. For its part, the Pan American Health Organization (PAHO) has repeatedly expressed its concern over the lack of detailed information in Nicaragua that does not allow a correct assessment of the situation, and has acknowledged that it had to resort to unofficial sources to understand what is happening within the country.¹⁷⁴³

1058. Likewise, a large number of false news stories that used the names and logos of independent media outlets were reported on social networks to simulate that they had been published by them, generating confusion.¹⁷⁴⁴

1059. According to available information, the Ministry of Health (Minsa) would not allow the entry of independent media and journalists to its daily press conferences. Press conferences would be extremely brief¹⁷⁴⁵ and only government-related media would be allowed in, with no possibility of asking questions.¹⁷⁴⁶ In addition, the then Minister of Health Carolina Dávila would have canceled an interview with *Canal 10* on March 24 without providing explanations.¹⁷⁴⁷

1060. Additionally, at least 16 doctors have been fired as a result of providing information on the development of the COVID-19 pandemic and criticizing the government's handling of the pandemic.¹⁷⁴⁸ For example, Carlos Quant, head of the infectious diseases' unit at the Manolo Morales public hospital, denounced that he was fired on June 4 in political retaliation for providing recommendations to the population that would be contrary to the government's speech and for questioning the measures adopted in the framework of the pandemic.¹⁷⁴⁹ Likewise, members of the Nicaraguan Medical Unit denounced a campaign of harassment and discredit by the government and related sectors.¹⁷⁵⁰

¹⁷⁴⁰ Confidencial. October 23, 2020. [Más de 7500 muertos por covid-19: Minsa oculta 98 por ciento de fallecidos](#); 100% Noticias. October 27, 2020. [Críticas en Nicaragua por subregistro de casos de Covid-19](#).

¹⁷⁴¹ Global Voices. August 31, 2020. [Ataque informático de Anonymous revela datos ocultos del Gobierno sobre casos de COVID-19 en Nicaragua](#); Artículo 66. August 19, 2020. [Datos filtrados por Anonymous revelan que el Observatorio Ciudadano se quedó corto en las cifras de Covid-19](#).

¹⁷⁴² Confidencial. August 29, 2020. [Aumentan dengue y malaria, y el Minsa sigue sin publicar el boletín epidemiológico](#); La Lupa. June 22, 2020. [¿Cómo afecta la publicación tardía del boletín epidemiológico?](#); La Prensa. December 11, 2020. [Minsa lleva siete meses sin publicar los boletines epidemiológicos. ¿qué significa esto para el país?](#).

¹⁷⁴³ Confidencial. May 12, 2020. [OPS: Escasa información del Minsa “no permite análisis adecuado” sobre covid-19](#); Artículo 66. July 21, 2020. [OPS reconoce que se guía por “fuentes no oficiales para entender qué pasa en Nicaragua” con el Covid-19](#).

¹⁷⁴⁴ Confidencial. May 10, 2020. [Repunte de desinformación oficial busca “generar temor y control”](#); La Prensa. May 8, 2020. [Orteguismo inunda redes sociales con noticias falsas cuando crecen reportes de casos de Covid-19](#).

¹⁷⁴⁵ Despacho 505. April 27, 2020. [Sin reportar nuevos casos, el Minsa reduce información sobre el Covid-19 a 17 palabras](#); Confidencial. July 7, 2020. [Informe “expres” del Minsa solo admite ocho fallecidos por covid-19 en últimos siete días](#).

¹⁷⁴⁶ 100% Noticias. March 19, 2020. [Periodistas Independientes demandan a dictadura Ortega Murillo libre acceso a la información de parte del MINSa](#); Voa Noticias. August 14, 2020. [Periodistas en Nicaragua sortean amenazas y falta de transparencia para informar en pandemia](#).

¹⁷⁴⁷ Confidencial. March 24, 2020. [Ministra de Salud evade entrevista con medios independientes](#).

¹⁷⁴⁸ La Prensa. June 13, 2020. [Dictadura ha sacado del sistema de salud a al menos 16 médicos especialistas durante la pandemia](#); 14 y medio. June 14, 2020. [En Nicaragua, 16 doctores despedidos por reclamar equipos de bioseguridad](#).

¹⁷⁴⁹ Voa Noticias. June 5, 2020. [Gobierno de Nicaragua despide a médicos que critican falta de medidas por COVID-19](#); 100% Noticias. June 4, 2020. [Despiden al infectólogo Carlos Quant del Hospital Roberto Calderón por cuestionar mal manejo del régimen Ortega-Murillo a pandemia del covid-19](#).

¹⁷⁵⁰ Confidencial. June 18, 2020. [Médicos denuncian “campana de acoso” por parte del Gobierno](#).

1061. Several doctors have also denounced that they have been forced by the Ministry of Health to modify the death certificates so that there is no record that the person had died from COVID-19.¹⁷⁵¹ For example, the family of journalist Gustavo Bermúdez, who died from COVID-19, stated that the death certificate described the cause as "severe atypical pneumonia", despite having tested positive for COVID-19.¹⁷⁵² In addition, the Nicaraguan Medical Unit denounced that there is a "policy of repression" and "extreme vigilance" on doctors to "prevent the disclosure of real information on the number of cases and deaths from coronavirus".¹⁷⁵³

1062. Likewise, the COVID-19 Citizen Observatory has expressed its concern over the recent approval of the Special Cybercrime Law, which could consider the dissemination of unofficial health information a crime.¹⁷⁵⁴

G. Freedom of expression and the Internet

1063. According to the available information, the two official YouTube channels of *100% Noticias* have been victims of a cyberattack that caused their closure. On March 5, YouTube reportedly notified the channel that they would close the accounts for complaints of copyright infringement, which had been presented by different pro-government media, due to the publication of images of presidential speeches. Miguel Mora, director of *100% Noticias*, reported that this does not allow his employees to access the media's video files, which would include images of government repression.¹⁷⁵⁵ On June 28, Mr. Mora announced that one of the YouTube channels had been returned.¹⁷⁵⁶

1064. On the other hand, the Office of the Rapporteur was informed about the approval of the Special Cybercrime Law on October 27, which entered into force on December 29.¹⁷⁵⁷ The law establishes within its objectives "the prevention, investigation, prosecution, and punishment of crimes committed by means of Information and Communication Technologies", which are defined as "set of communication media and information applications that allow the capture, production, reproduction, transmission, storage, processing, treatment, and representation of information".

1065. The Law provides in its article 30 the use of criminal law to punish acts that could be framed within the legitimate exercise of freedom of expression, by establishing as a crime the publication and dissemination of "false and/or misrepresented information" when "it causes alarm, fear, anxiety", which damages "honor, prestige, or reputation", or "incites hatred and violence, endangers economic stability, public order, public health, or sovereign security". The Office of the Rapporteur observes that the article would not pass the tripartite test of legality, necessity, and proportionality. In all three cases, prison sentences and fines are foreseen, which is clearly disproportionate. Due to the open wording of this article, which would not exceed the minimum standards required by the principle of strict legality, this Office understands that there is a real risk that this provision will generate a chilling effect on the free circulation of information and ideas in the country. In addition, the criminalization of false or misrepresented information raises great concerns, taking into account that the Office of the Rapporteur has already recommended that the States "avoid using criminal law tools, such as the creation of new broad and ambiguous criminal figures to classify the phenomenon of

¹⁷⁵¹ Despacho 505. June 11, 2020. [Médicos son obligados a cambiar la causa de muerte en las actas de defunción](#); La Prensa. May 12, 2020. [Casos de Covid-19 disfrazados como neumonías en Nicaragua](#); Artículo 66. May 20, 2020. [Director del Hospital de Masaya: "Todo lo que es neumonía atípica, es por el virus Covid-19"](#).

¹⁷⁵² Confidencial. May 27, 2020. [Familia del periodista Gustavo Bermúdez denuncia: cambiaron acta de defunción para ocultar covid-19](#); Nicaragua Investiga. May 27, 2020. [Familia del periodista Gustavo Bermúdez denuncia irregularidades en acta de defunción](#).

¹⁷⁵³ Agencia EFE. September 10, 2020. [Unidad Médica denuncia vigilancia extrema por datos de la Covid-19 en Nicaragua](#).

¹⁷⁵⁴ Confidencial. October 31, 2020. [Observatorio Ciudadano COVID-19 teme a la Ley Mordaza](#); Despacho 505. October 31, 2020. [Nicaragüenses seguirán a ciegas frente Covid-19: Ley mordaza criminalizará información de salud no oficial](#).

¹⁷⁵⁵ Committee to Protect Journalists (CPJ). May 6, 2020. [YouTube censors independent Nicaraguan news outlets after copyright complaints from Ortega-owned media](#); La Prensa. March 6, 2020. ["Bots Sandinistas" tumban página de canal 100% Noticias en Youtube, denuncian periodistas](#).

¹⁷⁵⁶ Twitter account of Miguel Mora (@MoraMiguel100). [June 28, 2020](#).

¹⁷⁵⁷ La Prensa. October 27, 2020. [Orteguismo aprueba la Ley de Cibercriminos que atenta contra la libertad de expresión](#); 100% Noticias. October 30, 2020. [Publican Ley Mordaza en la Gaceta, entrará en vigencia el 29 de diciembre](#); Despacho 505. December 29, 2020. ["Ley Mordaza" entra en vigencia: régimen podrá encarcelar a quien publique lo que considere "noticia falsa"](#).

disinformation”.¹⁷⁵⁸ This is especially worrying in a context in which senior authorities constantly accuse the media of spreading false news.

1066. According to available information, the bill would have been consulted with six public institutions that would be controlled by the government and with directors of official media. However, independent journalists did not participate.¹⁷⁵⁹

1067. Various civil society organizations and journalists have expressed their concern at the approval of this law, which is called the "Gag Law," stating that it is specifically directed at independent journalists and citizens who express themselves on the Internet, seeking to silence them. In addition, they have indicated that there is a possibility that the number of journalists in exile will increase due to fear of being subject to criminal proceedings for exercising their profession.¹⁷⁶⁰

1068. As a result of the events documented in Nicaragua during 2020, this Office reminds the State that:

1069. **The murder of journalists constitutes the most extreme form of censorship, and impunity contributes to the self-censorship of the press.** As the IACHR and The Office of the Special Rapporteur Principle have indicated, “[t]he murder, kidnapping, intimidation of, and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of States to prevent and investigate such occurrences, to punish their perpetrators, and to ensure that victims receive due compensation.” Violence against journalists not only violates the freedom of thought and expression of the affected person, but also affects the collective dimension of this right. Acts of violence that are committed against journalists (a term understood under a broad definition, from a functional perspective) or people who work in the media and who are linked to their professional activity, violate the right of these people to express and impart ideas, opinions, and information and, furthermore, violate the rights of citizens and societies in general to seek and receive information and ideas of any kind.

1070. **Public authorities are called upon to maintain a speech favorable to public deliberation and freedom of expression.** The Office of the Special Rapporteur reiterates that public officials have the duty to ensure that their statements are not infringing on the rights of those who contribute to public deliberation by expressing and disseminating their thoughts, such as journalists, the media, and human rights organizations, and they must be aware of the context in which they express themselves to ensure that their expressions do not constitute, in the words of the Court, “forms of direct or indirect interference, harmful oppression of the rights of those who seek to contribute to public deliberation through the expression and dissemination of their thoughts”.¹⁷⁶¹

1071. **Direct or indirect pressures aimed at silencing the informative work of social communicators are incompatible with freedom of expression.** In this regard, the IACHR and the Office of the Special Rapporteur recall that Principle 13 of the Declaration of Principles on Freedom of Expression establishes that “[t]he use of the power of the State and the resources of the public finances [...], with the objective to pressure and punish or reward and privilege social communicators and the media based on their news lines, violates freedom of expression and must be expressly prohibited by law. The media have the right to carry out their work independently”.

1072. **The inter-American human rights system explicitly prohibits prior censorship.** This arises from Article 13.2 of the American Convention on Human Rights, and Principle 5 of the Declaration of Principles on Freedom of Expression, which establishes that “[p]rior censorship, direct or indirect interference in, or

¹⁷⁵⁸ IACHR. Office of the Special Rapporteur for Freedom of Expression. [Guide to guarantee freedom of expression regarding deliberate disinformation in electoral contexts](#). October 2019..

¹⁷⁵⁹ Confidencial. October 17, 2020. [Asamblea orteguista “consulta” la “Ley Mordaza” con medios oficialistas](#); Despacho 505. October 7, 2020. [Régimen se autoconsulta para aprobar “Ley Mordaza”](#).

¹⁷⁶⁰ Despacho 505. October 28, 2020. [Ley mordaza empujará al exilio a más periodistas nicaragüenses, advierte PCIN](#); Confidencial. October 26, 2020. [Periodistas ante Ley Mordaza: No nos callarán](#); Fundación Violeta Barrios de Chamorro. October 1, 2020. [Foro de la Prensa Independiente de Nicaragua: ¡No a la Ley Mordaza!](#).

¹⁷⁶¹ I/A Court H. R. *Case of Perozo et al v. Venezuela. Preliminary Objections, Merits, Reparations and Costs*. Judgment of January 28, 2009. Serie C No. 195. Par. 151; *Case Ríos et al v. Venezuela. Preliminary Objections, Merits, Reparations and Costs*. Judgment of January 28, 2009. Serie C No.194. Par. 139.

pressure exerted upon any expression, opinion, or information transmitted through any means of oral, written, artistic, visual, or electronic communication must be prohibited by law. Restrictions to the free circulation of ideas and opinions, as well as the arbitrary imposition of information, and the imposition of obstacles to the free flow of information violate the right to freedom of expression.”

1073. **Transparency and accountability of public powers strengthen democratic systems.** The Office of the Special Rapporteur has highlighted the importance in the current context of the availability of public information by the communities, to save lives, adopt precautions, and monitor the government's response from every point of view. In this regard, the IACHR reminds the State of Nicaragua that Principle 4 of the IACHR Declaration of Principles on Freedom of Expression establishes that “[a]ccess to information held by the State is a fundamental right of every individual. States have the obligation to guarantee the full exercise of this right. This principle allows only exceptional limitations that must be previously established by law in case of a real and imminent danger that threatens national security in democratic societies.”

1074. **Freedom of expression applies to the Internet in the same way as to all media.** The Office of the Special Rapporteur recalls that human rights and, in particular, the right to freedom of expression, find through the Internet a unique instrument to unleash its enormous potential in broad sectors of the population. The relevance of the Internet as a platform for the enjoyment and exercise of human rights is directly linked to the architecture of the network and the principles that govern it, including the principle of openness, decentralization, and neutrality¹⁷⁶². Likewise, it reiterates that Principle 5 of the Declaration of Principles states that “[p]rior censorship, direct or indirect interference in, or pressure exerted upon any expression, opinion, or information transmitted through any means of oral, written, artistic, visual, or electronic communication must be prohibited by law. Restrictions to the free circulation of ideas and opinions, as well as the arbitrary imposition of information, and the imposition of obstacles to the free flow of information violate the right to freedom of expression.”

¹⁷⁶² IACHR. Office of the Special Rapporteur for Freedom of Expression. [Freedom of Expression and the Internet](#). OEA/Ser.L/V/II. IACHR/RELE/INF. 11/13. December 31, 2013; IACHR. Office of the Special Rapporteur for Freedom of Expression. [Standards for a Free, Open and Inclusive Internet](#). OEA/Ser.L/V/II CIDH/RELE/INF.17/17. March 15, 2017.

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1075. In 2020, the Office of the Special Rapporteur continued to observe a constant use of criminal and civil procedures against journalists and the media that investigate and publish alleged corruption acts, which could be a tool of intimidation and indirect censorship. This Office observes with special concern the decision of the Panamanian Justice to order the seizure of the assets of the corporation Corporación La Prensa S.A. (Corprensa), owners of the newspapers *La Prensa* and *Mi Diario*, within the framework of the civil process initiated by former president Ernesto Pérez Balladares. Likewise, the Office of the Special Rapporteur warns about the increase in attacks against journalists covering protests in Panama.

A. Attacks, threats, and intimidation against journalists and the media

1076. On October 29, the journalist from *La Estrella de Panamá*, Juan Alberto Cajar, was detained by units of the National Police when he was covering a protest called by civil society groups on the premises of the National Assembly against alleged corruption in the context of the pandemic.¹⁷⁶³ According to publicly known information, the communicator and professor from the University of Panama was transferred to the police station in the Calidonia district, then transferred to the Santo Tomás Hospital for a medical evaluation, and finally returned to the police station, from where he was released around 10:30 at night. The journalist was summoned to a hearing for the following day, accused by the authorities of "disturbing public order." Finally, on November 2, after significant pressure from journalistic unions and civil society organizations, the National Police dropped the charges against journalist Juan Cajar.¹⁷⁶⁴

1077. Among other relevant events, the Office of the Special Rapporteur was informed that on December 14, cameraman Joshua Torres of the *EcoTv* news network was hit by rubber bullets in an arm and a leg, in the framework of protests organized by young people in the vicinity of the National Assembly against "hate speech towards the popular class" that the Government supposedly promotes and the "mismanagement" of the response to the pandemic. Despite being outside the "crossfire zone", the communicator would have been shot at a very close range, which could eliminate the presumption of possible human error.¹⁷⁶⁵ On that same occasion, according to the information received, different journalists were affected by an unusual launch of pepper spray and pepperball shots supposedly launched with the intention of dispersing them from the "safe zone" in which they were located to protect their physical integrity and their safety equipment from the gas.¹⁷⁶⁶

1078. Likewise, on December 16, the correspondent for the *EFE* network in Panama, Bienvenido Velasco, received various bullet wounds from the National Police when he was covering a student demonstration against the Government in front of the National Assembly, rejecting the exclusion of young people from the so-called "Bono Solidario" due to the pandemic.¹⁷⁶⁷ The National Association of Journalists (Conape) demanded an explanation from the National Police for what happened to the photojournalist, who in his work was beaten on his back and ribs, according to information provided by the media. In the statement, Conape stressed that the incident took place when the reporter tried "to establish that he was reporting, showing his press credential, to avoid being detained as had been the order of a police superior".¹⁷⁶⁸ According to Bienvenido Velasco, "the police tried to block his access by pushing him with their shields. "About 15

¹⁷⁶³ *La Estrella de Panamá*. October 29, 2020. [Periodista de 'La Estrella' Juan Cajar es detenido por cubrir protesta en la Asamblea](#); Metro Libre. October 30, 2020. [Directivos de La Estrella denuncian arresto de periodista, hoy podrían levantarle cargos](#); *La Prensa*. October 30, 2020. [Detención del periodista Juan Cajar viola la libertad de prensa', gremios periodísticos](#).

¹⁷⁶⁴ *La Prensa*. November 2, 2020. [Policía Nacional desiste de los cargos contra el periodista Juan Cajar](#); Telemetro. November 2, 2020. [Policía Nacional desiste de los cargos contra periodista de La Estrella, Juan Cajar](#); *La Estrella de Panamá*. November 2, 2020. [La Policía Nacional retira los cargos contra el periodista Juan Cajar](#).

¹⁷⁶⁵ Twitter account of Félix Antonio Chávez (@felixchaveztv). [December 14, 2020](#); Archive of the Office of the Special Rapporteur for Freedom of Expression. E-mail received on December 17, 2020.

¹⁷⁶⁶ Archive of the Office of the Special Rapporteur for Freedom of Expression. E-mail received on December 17, 2020.

¹⁷⁶⁷ *La Prensa*. December 16, 2020. [Detienen a 27 personas por protestas contra la corrupción y restricciones en bono](#); Agencia EFE. December 17, 2020. [Agresión policial a un fotógrafo de Efe causa repudio generalizado en Panamá](#); *La Estrella de Panamá*. December 17, 2020. [Repudian represión contra periodistas, segundo caso en menos de dos meses](#); TVN Noticias. December 17, 2020. [Fotógrafo de medio internacional asegura que fue agredido por la policía durante protestas](#).

¹⁷⁶⁸ Twitter account of Colegio de Periodistas de Panamá (@Conape_Panama). [December 17, 2020](#); Metro Libre. December 17, 2020. [Colegio de Periodistas repudia agresión a corresponsal de noticias](#); Agencia EFE. December 17, 2020. [Agresión policial a un fotógrafo de Efe causa repudio generalizado en Panamá](#).

policemen surrounded me and tried to throw me to the ground (...) an officer gave the order to handcuff me and detain me, which I answered no, I am the press, then they hit me from behind on the ribs strongly, then another officer approaches me, takes my press credential, and orders that they release me" said the reporter.¹⁷⁶⁹

1079. In the context of this protest, journalists Juan Williams Caballero, Bienvenido Velasco (*EFE*), Mauricio Valenzuela (*FOCO Panama* and *Reuters*) and Roberto Barrios (*Mi Diario* and *La Prensa*) indicated that they were attacked and prevented from documenting the police action. They added that the Lieutenant in charge of the operation, Andres J. Urriola, of the ALFA force, ordered their arrest to prevent or obstruct their journalistic work.¹⁷⁷⁰

1080. On December 18, journalist Aris Rodríguez Mariota of the digital portal *En Segundos Panamá* was scorted by security personnel from the National Migration Service (SNM), while he captured on video the line of users waiting outside to carry out their respective procedures. Although the communicator identified himself as press, the security personnel told him to come closer and enter the institution, later demanding that he show them the material he was filming. "There is an aggressive treatment against what we are recording and the work we are doing, which is reporting, and it is interrupted and attacked," said the journalist.¹⁷⁷¹

1081. On the other hand, the Office of the Special Rapporteur also heard of the complaint presented by *La Prensa* journalist, Mary Triny Zea, before the Public Prosecutor's Office in order to investigate whether the lawyer and legal representative of the Panamanian company Sicarelle could be the responsible for a strategy of psychological violence against her. Mary Triny Zea, author of a journalistic investigation that revealed alleged irregularities in the services provided in hotel-hospitals by the company Sicarelle Holdings Inc, reported that she received attacks through text messages and social networks as a result of her July 15 note titled "Direct contracting puts patients at risk".¹⁷⁷²

B. Indirect censorship

1082. The Office of the Special Rapporteur received with concern the decision of the 15th Civil Circuit Court, which ordered the seizure of the assets of the company Corporación La Prensa S.A. (Corprensa), owners of the newspapers *La Prensa* and *Mi Diario*, within the framework of the civil process initiated by former president Ernesto Pérez Balladares.¹⁷⁷³ In 2012, the former president of the Republic of Panama Ernesto Pérez Balladares filed a civil lawsuit for defamation against Corprensa as a result of two articles published by the *La Prensa* newspaper on March 21 and 22, 2011 that would have linked him to an alleged case of money laundering. These notes reported that Pérez Balladares "could be the subject of a second criminal investigation" for alleged money laundering, for "alleged irregularities detected in a bank account in the Bahamas." In the lawsuit -which was admitted on March 22, 2012 and to date has not yet been resolved in the first instance- the former president requested a compensation for 5.5 million dollars in damages. According to the media, before publishing the articles, they contacted the defense of the head of state and they reportedly added their version of the events.

1083. On July 4, 2020, eight years after the filing of the lawsuit, Corprensa was notified of the precautionary order on its bank accounts for the value of up to \$1,130 million, as well as the shares of a subsidiary that owns the land and the building where the newsrooms and the newspaper prints are located.¹⁷⁷⁴ Although Pérez Balladares' claim would have been to seize even essential goods, including paper and the prints, Judge Lina

¹⁷⁶⁹ Agencia EFE. December 17, 2020. [Agresión policial a un fotógrafo de Efe causa repudio generalizado en Panamá.](#)

¹⁷⁷⁰ Archive of the Office of the Special Rapporteur for Freedom of Expression. E-mail received on December 17, 2020.

¹⁷⁷¹ La Estrella de Panamá. December 18, 2020. [Personal de migración retienen a fotoperiodista panameño por arabar filas.](#)

¹⁷⁷² La Prensa. July 30, 2020. [Periodista denuncia en el Ministerio Público violencia psicológica tras publicaciones.](#) IPYS. July 30, 2020. [Panamá: Periodista denuncia en el Ministerio Público violencia psicológica tras publicaciones.](#)

¹⁷⁷³ TVN Noticias. July 4, 2020. [Ernesto Pérez Balladares secuestra \\$1.13 millones en activos de Corprensa.](#) Infobae. July 4, 2020. [Ex presidente de Panamá secuestró cuentas y acciones del diario La Prensa.](#) IPYS. July 5, 2020. [Panamá: expresidente Ernesto Pérez Balladares secuestra activos de Corporación La Prensa.](#) La Prensa. July 6, 2020. [Pérez Balladares pretende silenciar a 'La Prensa'.](#) IDL Reporteros. July 6, 2020. [Lo que hay detrás del secuestro de activos de La Prensa de Panamá.](#) CNN. July 6, 2020. [Juzgado de Panamá secuestra activos de Corporación La Prensa por demanda de expresidente.](#)

¹⁷⁷⁴ La Prensa. July 4, 2020. [El expresidente Ernesto Pérez Balladares secuestra activos de Corporación La Prensa.](#) Committee to Protect Journalists (CPJ). July 10, 2020. [Panama court freezes La Prensa's assets amid defamation suit by former president.](#)

Castro De León rejected said request on the grounds that it was goods that the corporation uses in its daily work. The decision was described as a "direct censorship tool" and "a serious blow to freedom of the press".¹⁷⁷⁵ On July 6, the publishing company posted the bail for the entire amount in the Fifteenth Court and made the request to lift the seizure order, which was ultimately denied by the judge.¹⁷⁷⁶

1084. As the Office of the Rapporteur learned, on July 28 the justice ordered the partial lifting of the civil seizure, since the amount seized exceeded the amount ordered by the court.¹⁷⁷⁷ According to the Office of the Rapporteur, Corprensa appealed the judicial decision that ordered the seizure of their assets. However, the First Superior Court of the First Judicial District, made up of judges Miguel Espino, Nora Jovel de Espinal, and Víctor Torres, confirmed the first decision.¹⁷⁷⁸

C. Subsequent liabilities

1085. In October, the Inter-American Press Association (IAPA) pointed out that there is an increase in legal actions against the media, journalists, and opinion leaders or influencers, which would be used "as a tool for intimidation and to promote censorship".¹⁷⁷⁹

1086. According to the information available, former President Ricardo Martinelli had filed 16 complaints against journalists from *La Prensa* and *Mi Diario* for the alleged commission of crimes against honor, which would represent 38 journalists and media executives accused in both media. Of the 16 lawsuits filed, 11 have been admitted, whose civil claims total more than 46 million dollars.

1087. In February 2020, guarantees judges of the accusatory criminal system of the First Judicial District archived six complaints for the alleged commission of crimes against honor to the detriment of former President Ricardo Martinelli. The complaints were filed against I. Roberto Eisenmann, founder of the newspaper *La Prensa*; Mariela Ledezma and Annette Planells (one against each of them and the other jointly), hosts of the radio program "Sal y Pimienta"; the directors of Corporación La Prensa (Corprensa) Diego Quijano and César Tribaldos; *Mi Diario* journalists Luis Enrique Brathwaite, Martha Vanessa Concepción, and Sonia Navarro, and its director Lorenzo Ábrego; as well as against a Twitter user. The complaints were all dismissed by the guarantees judges, after considering that in none of them there was proof of the commission of a crime.¹⁷⁸⁰

1088. This Office values the decision adopted on February 27, 2020 by the First Superior Court of Justice that reversed the sentence of a civil judge who in 2015 convicted Corporación La Prensa y Editorial por la Democracia S.A. to pay 600 thousand dollars in moral damages to the brothers David and Daniel Ochy Díez, of the construction company Transcribe Tranding, S.A. (TCT), for publications made in 2012 in the newspaper *La Prensa* about their state contracts to build a highway in Paso Canoa-Puerto Armuelles.¹⁷⁸¹ According to available information, the day after such publications, on August 3, 2012, TCT trucks blocked the Corprensa facilities to prevent the newspapers *La Prensa* and *Mi Diario* from circulating. In the ruling, the Superior Court judges, Nelson Ruíz, Carlos Trujillo and Olga Rujano De León, indicated that the plaintiffs did not demonstrate that the news published was false and inaccurate and that it was made with the intention of harming or damaging them. "It is convenient to refer to the fact that the information revealed in the aforementioned

¹⁷⁷⁵ La Prensa. July 6, 2020. [Secuestro de activos de diarios es una 'herramienta de censura directa', afirma la SIP.](#)

¹⁷⁷⁶ La Prensa. July 9, 2020. [La juez rechaza fianza para levantar el secuestro de los activos de Corprensa](#); Mi Diario. July 9, 2020. [Juez niega fianza a Corporación La Prensa que levantaría secuestro de Pérez Balladares](#);

¹⁷⁷⁷ La Prensa. July 30, 2020. [Juez levanta excedente del secuestro a Corprensa.](#)

¹⁷⁷⁸ La Estrella de Panamá. July 26, 2020. [Tribunal Superior confirma secuestro contra La Prensa.](#)

¹⁷⁷⁹ Inter-American Press Association (IAPA). October 21 - 23, 2020. [Panama Report to the IAPA 76 General Assembly](#); La Prensa. October 22, 2020. [Demandas son herramientas 'de intimidación': SIP](#); TVN. October 23, 2020. [SIP resalta aumento de acciones judiciales contra medios de comunicación y periodistas en Panamá.](#)

¹⁷⁸⁰ La Prensa. February 7, 2020. [Deciden archivar querellas presentadas por el expresidente Martinelli contra Ledezma, Planells y Eisenmann](#); La Prensa. February 8, 2020. [Archivan querellas de Martinelli por delitos contra el honor](#); TVN Noticias. February 8, 2020. [Archivan querellas del expresidente Martinelli por supuestos delitos contra el honor](#); Panamá América. February 8, 2020. [Juzgado accede al archivo de denuncias por calumnia e injuria.](#)

¹⁷⁸¹ La Prensa. July 15, 2020. [Tribunal falla a favor de Corprensa, en demanda presentada por TCT y los hermanos Ochy](#); Mi Diario. July 15, de 2020. [Gana la libertad de prensa. Tribunal revoca sentencia que condenaba a Corporación La Prensa.](#)

journalistic media related to public contracting, as well as the use of public funds, for this reason, it can be classified as news of relevance or public interest," they stated.¹⁷⁸²

1089. Likewise, in December 2020, the Twelfth Civil Judge, Ibeth Muñoz Almanza, dismissed a lawsuit from the company Panaplátanos, S.A. and the brothers David and Daniel Ochy Diez, against Corporación La Prensa for alleged non-pecuniary damage.¹⁷⁸³ The lawsuit originated from a series of publications in June and July 2012 in which the newspaper *La Prensa* reported that the Association for the Agrarian Transformation of Barú (ASTBarú), formed by former associates of the Cooperativa de Servicios Múltiples de Puerto Armuelles (Coosemupar), had decided to exploit banana production through an agreement with Panaplátanos, SA, a company controlled by brothers David and Daniel Ochy Diez. According to the judge, "It has been evidenced that the invasion of land, indeed, existed by the former workers who were looking for partners to work the land and obtain a livelihood," stated the judge.¹⁷⁸⁴

1090. The Office of the Special Rapporteur noted with concern the decision adopted on June 8 by the guarantee judge Elkis Martínez, which prohibited the newspaper *La Prensa* from publishing the photo of the lawyer Janio Lescure and refraining from continuing to investigate him.¹⁷⁸⁵ The case originated after the lawsuit of the aforementioned lawyer against the president of Corporación La Prensa, Diego Quijano, and the associate director Rolando Rodríguez, for the alleged commission of crimes against honor to his detriment. According to publicly known information, the lawsuit is linked to a series of articles in which *La Prensa* reproduced recordings made of Janio Lescure by Israeli detectives in Spain, in which acts of corruption in the Panamanian judiciary were allegedly exposed.

D. Other relevant situations

1091. According to the information available, in the framework of the General Assembly No. 76 of the Inter-American Press Association (IAPA) held virtually from October 21 to 23, the President of Panama, Laurentino Cortizo Cohen, signed the Declaration of Chapultepec on freedom of the press and expression, as well as the Declaration of Salta on principles of freedom of expression in the digital age, becoming the first president to sign such an instrument.¹⁷⁸⁶ "In Panama, being at the service of freedom of the press and investigative journalism does not entail a mortal danger, I consider it ideal that democratic governments can exercise freedom of expression when explaining their reasoning ... I ratify and reiterate my commitment to freedom of press and expression", affirmed the Head of State.

1092. This Office learned that the public debate on the need to create a professional journalism law that legally certifies the profession has been resumed.¹⁷⁸⁷ The National Association of Journalists of Panama (CONAPE) issued a statement in which it expressed its concern "about the path that some events carried out by social activists are taking, hiding behind one of the fundamental pillars of the journalistic profession, which is the right to freedom of expression". Likewise, the organization warned that "some so-called 'digital media activists' are not members or have any link with the National Association of Journalists" so they do not consider appropriate "to endorse the actions of groups that use or incite violence to impose 'their truth' and publish information, without support from proven sources".¹⁷⁸⁸

¹⁷⁸² La Prensa. July 15, 2020. [Tribunal falla a favor de Corpprensa, en demanda presentada por TCT y los hermanos Ochy](#); Mi Diario. July 15, 2020. [Gana la libertad de prensa. Tribunal revoca sentencia que condenaba a Corporación La Prensa](#).

¹⁷⁸³ Foco Panamá. December 1, 2020. [Los Ochy tendrán que pagarle a La Prensa, tras perder demanda](#); La Prensa. December 2, 2020. [Juez desestima demanda contra Corpprensa y confirma que sí se invadieron tierras en Barú](#).

¹⁷⁸⁴ Foco Panamá. December 1, 2020. [Los Ochy tendrán que pagarle a La Prensa, tras perder demanda](#); La Prensa. December 2, 2020. [Juez desestima demanda contra Corpprensa y confirma que sí se invadieron tierras en Barú](#).

¹⁷⁸⁵ La Prensa. June 9, 2020. [Jueza prohíbe a 'La Prensa' reproducir imagen de Janio Lescure](#); La Prensa. June 9, 2020. [Prohibir el uso de la foto de Janio Lescure 'es una grave censura a la libertad de información'](#); La Silla Rota. June 11, 2020. ["Grave antecedente": censura contra el diario La Prensa de Panamá: SIP](#); La Prensa. June 11, 2020. [SIP cataloga decisión de jueza Martínez como 'grave antecedente' para la libertad de prensa](#).

¹⁷⁸⁶ Inter American Press Association (IAPA). October 20, 2020. [Presidente Cortizo de Panamá firmará la Declaración de Chapultepec en un acto público a través de Zoom](#); La Estrella. October 21, 2020. [Cortizo firma Declaración de Chapultepec y de Salta, sobre libertad de expresión](#); Telemetro. October 21, 2020. [Presidente Cortizo inaugura la 76 Asamblea de la SIP con la firma de la Declaración de Chapultepec y de Salta](#).

¹⁷⁸⁷ La Estrella de Panamá. August 31, 2020. [Se aviva el debate sobre Ley profesional del periodismo](#); LatAm Journalism Review. August 31, 2020. [En Panamá se aviva el debate sobre Ley profesional del periodismo](#).

¹⁷⁸⁸ En Segundos. August 28, 2020. [Colegio de Periodistas pide respeto a la profesión](#).

1093. The Office of the Special Rapporteur also recorded that in September the Electoral Court handed over to the National Commission on Electoral Reform (CNRE) a draft reform to the Electoral Code that criminalizes misinformation that may be detrimental to the electoral process or to the services the Electoral Court provides, with penalties of 1 to 2 years in prison. On the other hand, the bill classifies the dissemination of false news as an electoral offense, which would be punishable by fines of \$2,000 to \$5,000.¹⁷⁸⁹ According to available information, the initiative would be presented before Congress in January 2021.

1094. According to the facts documented by this Office in Panama, it is recommended that the State takes into special consideration that:

1095. **Journalism is the primary and main manifestation of freedom of expression and States have a positive obligation to promote a safe working environment for the press.** In this sense, the Inter-American Court has held that “it is essential that journalists [...] enjoy the protection and independence necessary to carry out their duties fully, since they are the ones who keep society informed, an indispensable requirement for it to enjoy full freedom”.¹⁷⁹⁰ In the context of social protests, journalists, camerapeople, photo reporters, and communicators covering the protests play a fundamental role in gathering and disseminating information, including the actions of the security forces and possible acts of violence. As the IACHR has stated, freedom of expression protects the right to record and report any incident.¹⁷⁹¹ For all these reasons, the State must provide the press with the highest degree of protection so that they can carry out their work freely and keep society informed on matters of public interest. In this sense, as indicated in the Protest and Human Rights report, the State “must formulate specific policies to prevent, investigate, and punish violence against journalists, communicators, activists, social movements, referents, and social leaders in the context of protests, based on the role that these actors play in the prevention, monitoring, and control of State actions”.¹⁷⁹²

1096. **The use of criminal mechanisms to punish speech on matters of public interest, especially related to public officials, is incompatible with inter-American standards.** Under Article 13 of the American Convention, speeches on matters of public interest have reinforced protection, especially those that express essential elements of identity or denounce situations of violence and structural discrimination. Principle 11 of the IACHR Declaration of Principles on Freedom of Expression establishes that “[p]ublic officials are subject to greater scrutiny by society. Laws that penalize offensive expressions directed at public officials, [...] restrict freedom of expression and the right to information”. The IACHR and the Inter-American Court have repeatedly indicated that the States have a more limited scope to impose restrictions on the right to freedom of expression when it comes to specially protected speeches, namely: expressions pertaining to the State, to matters of public interest, to public officials in the exercise of their functions or candidates for public office, or individuals voluntarily involved in public affairs, as well as political discourse and debate¹⁷⁹³. These are subject to a greater degree of scrutiny and criticism from the public, which is justified by the nature of the public interest of the activities they carry out, because they have voluntarily been exposed to a more demanding scrutiny and because they have an enormous capacity to dispute information through their power of public convocation¹⁷⁹⁴. The Office of the Special Rapporteur has also insisted on the need not to use vague or ambiguous criminal figures to criminalize expressions that, although they may be offensive, shocking, or irritate officials or part of the population, constitute expressions of public interest that should not be criminalized in a democratic society.

¹⁷⁸⁹ La Estrella de Panamá. September 9, 2020. [TE propone sancionar con cárcel la desinformación electoral](#); La Celosía. September 10, 2020. [El tribunal electoral de Panamá propone sancionar con cárcel la desinformación](#).

¹⁷⁹⁰ I/A Court H. R. [Case Ivcher Bronstein v. Peru. Merits, Reparations and Costs](#). Judgment of February 6, 2001. Serie C No. 74, par. 147-150.

¹⁷⁹¹ IACHR. [Protest and Human Rights](#). OEA/Ser.L/V/II. CIDH/RELE/INF.22/19. September 2019. Par. 355.

¹⁷⁹² IACHR. [Protest and Human Rights](#). OEA/Ser.L/V/II. CIDH/RELE/INF.22/19. September 2019. Par. 293.

¹⁷⁹³ IACHR. [Annual Report 1994](#). OEA/Ser. L/V/II.88. Doc. 9 rev. February 17, 1995; IACHR. Office of the Special Rapporteur for Freedom of Expression. [Annual Report 2009](#). OEA/Ser.L/V/II. Doc. 51. December 30, 2009. Par. 100; I/A Court H. R. [Case of Ivcher Bronstein v. Peru. Merits, Reparations and Costs](#). Judgment of February 6, 2001. Serie C No. 74; I/A Court H. R. [Case of Herrera Ulloa v. Costa Rica](#). Judgment of July 2, 2004. Serie C No. 107; I/A Court H. R. [Case of Ricardo Canese v. Paraguay](#). Judgment of August 31, 2004. Serie C No. 111; I/A Court H. R. [Case of Palamara Iribarne v. Chile](#). Judgment of November 22, 2005. Serie C No. 135; I/A Court H. R. [Case of Eduardo Kimel v. Argentina](#). Judgment of May 2, 2008. Serie C No. 177..

¹⁷⁹⁴ IACHR. Office of the Special Rapporteur for Freedom of Expression. [Annual Report 2009](#). OEA/Ser.L/V/II. Doc. 51. December 30, 2009. Par. 40.

1097. **The inter-American human rights system explicitly prohibits prior censorship.** This arises from Article 13.2 of the American Convention on Human Rights, and Principle 5 of the Declaration of Principles on Freedom of Expression, which establishes that “[p]rior censorship, direct or indirect interference in, or pressure exerted upon any expression, opinion, or information transmitted through any means of oral, written, artistic, visual, or electronic communication must be prohibited by law. Restrictions to the free circulation of ideas and opinions, as well as the arbitrary imposition of information, and the imposition of obstacles to the free flow of information violate the right to freedom of expression.”

PARAGUAY

1098. In 2020, the Office of the Special Rapporteur continues to observe the persistence of the use of criminal mechanisms against those who publicly demonstrate in social protests, as well as against journalists who cover issues of public interest that inconvenience government authorities. In particular, this Office is alarmed by the facts related to an alleged network of espionage against journalists and politicians who investigated or reported acts of corruption and irregularities in the purchase of supplies to deal with COVID-19. Likewise, the Office of the Special Rapporteur expresses extreme concern over the murder of journalist Lourenço "Leo" Veras, who was investigating issues related to organized crime and drug trafficking on the border between Paraguay and Brazil for the informative website *Porã News* and other Brazilian media. Finally, the Office of the Special Rapporteur welcomes the judgment of the Supreme Court which establishes that the affidavits of the highest-ranking authorities of the Republic must be freely accessible to the public.

A. Attacks, threats, and intimidation against journalists and the media

1099. The Office of the Special Rapporteur received with concern the news of the arrest of journalist Roberto Esquivel by members of the Paraguayan Military Army when he was carrying out his journalistic work. On July 18, the journalist -who works freelance for local media- was apprehended in the city of Bella Vista Norte, in the department of Amambay, near the border with Brazil, while reporting and covering border controls following the closure of the border.¹⁷⁹⁵ The communicator later stated that the officers handcuffed him, covered his head with a ski mask and beat him. According to public information, he reportedly suffered bruises on his face, torso, and one arm. Roberto Esquivel was finally released without charges pressed against him. Subsequently, the Paraguayan Army published a statement in which they reported on the arrest of a person -which matched the journalist's description- who had tried to cross the border illegally and who, when reprimanded by troops, refused to show his identity document, and began to threaten them, for which he was arrested and transferred to the police station.¹⁷⁹⁶

1100. Likewise, in September, the Minister of Education and Sciences, Eduardo Petta, reportedly discredited the work of journalist René González, from the *Ultima Hora* media, in a virtual conference. "You have to be very clear and you have to be a little more up front with this type of journalists who are quite contaminated in terms of giving true information, with the truth, to the Paraguayan citizen," the official warned.¹⁷⁹⁷ The Union of Journalists of Paraguay repudiated the statement, and indicated that "as Minister of Education, he is obligated to not issue these intimidating messages against press workers, with the only intention of conditioning any future publication by a journalist regarding his work on the portfolio".¹⁷⁹⁸

B. Murders

1101. On the evening of February 12, the Brazilian journalist Lourenço "Leo" Veras in charge of the informative website *Porã News* and a correspondent for various Brazilian media outlets, was murdered. The reporter developed his work in the border region in the city of Pedro Juan Caballero, capital of the Amambay department, Paraguay. According to the information provided by the Paraguayan National Police, the crime took place at the journalist's home, located in the Jardín Aurora neighborhood. The journalist was having dinner with his family when a van with three individuals arrived; two of them were allegedly responsible for shooting him at least 12 times, one of the shots being to the head. The reporter died later at the Viva Vida hospital in the city of Pedro Juan Caballero.¹⁷⁹⁹

¹⁷⁹⁵ ABC. July 18, 2020. [Militares habrían golpeado a un comunicador de Bella Vista Norte](#); ADN Digital. July 19, 2020. [Denuncian a militares por detención irregular de periodista en Bella Vista](#); Committee to Protect Journalists (CPJ). July 23, 2020. [Paraguayan soldiers assault, detain journalist Roberto Esquivel](#).

¹⁷⁹⁶ Ejército Paraguayo. July 18, 2020. [Informativo de prensa N° 33/2020](#); Última Hora. July 19, 2020. [Ejército alega que periodista detenido intentó cruzar a Brasil](#).

¹⁷⁹⁷ Última Hora. July 19, 2020. [Petta se enfasca en una peligrosa intimidación a un periodista de ÚH](#).

¹⁷⁹⁸ Twitter account of Sindicato de Periodistas de Paraguay (@PeriodistasPy). [September 19, 2020](#).

¹⁷⁹⁹ El País. February 13, 2020. [Asesinado a tiros un periodista brasileño en una zona "de alto riesgo" de la frontera paraguaya](#); Reporters Without Borders (RSF). February 14, 2020. [Brazilian journalist murdered at home in Paraguay](#); CNN. February 14, 2020. [Investigan](#)

1102. The Office of the Special Rapporteur condemned the murder, and called on the Paraguayan State to fully, effectively, and impartially investigate this crime and others that have gone unpunished; clarify their motives; and judicially determine the relationship they may have to journalistic activity and freedom of expression.¹⁸⁰⁰

1103. At the *Porã News* site, Leo Veras specialized among other topics in organized crime and drug trafficking on the border between Paraguay and Brazil. This Office learned that weeks prior to the assassination, on January 19, the city of Pedro Juan Caballero was the scene of the escape of 75 prisoners from the regional penitentiary, most of them linked to the Brazilian criminal organization First Capital Command (PCC). Sources close to Veras reported that the journalist expressed fear for his life as a result of the situation.

C. Prosecution

1104. In September, the Human Rights Coordinator of Paraguay (Codehupy) visited the family of young Rodrigo Quintana, a young leader of the Authentic Radical Liberal Party [*Partido Liberal Radical Auténtico*] who died at dawn on April 1, 2017 inside the headquarters of the aforementioned opposition party, to following shots fired indiscriminately by the police.¹⁸⁰¹ This happened within the framework of citizen protests against the intention to enable presidential reelection through an amendment and not through the constitutionally provided path. On April 3, 2017, the IACHR issued a statement expressing deep concern over the acts of violence and repression in the context of the protests in Paraguay. Regarding the death of Rodrigo Quintana, the IACHR urged the State to promote a swift investigation into the death of the young man, to establish whether it was an extrajudicial execution and, consequently, to apply the corresponding judicial responsibilities.¹⁸⁰²

1105. During the visit to the family's home in La Colmena, Paraguari, representatives of Codehupy expressed their solidarity given the continued state impunity of the incident and reported that it had launched a monitoring of the judicial cases related to the events of March 31, 2017. The organization expressed its concern that the trial -which has not yet started- against a non-commissioned officer of the Police, to date the only one prosecuted for the death of the young man, "yields results that are not compatible with an exhaustive, sufficient investigation, to investigate and establish the responsibility not only of the alleged perpetrator, but of all the people who could have been involved in the wrongdoing at the headquarters of a party and the murder of the young Quintana".¹⁸⁰³

D. Communication surveillance and source confidentiality

1106. The Office of the Special Rapporteur observed with concern the alleged network of espionage against journalists and politicians who investigated or reported acts of corruption and irregularities in the purchase of supplies to deal with COVID-19. According to the information available, a team from the Specialized Computer Crimes Unit with the support of Attorney General Sandra Quiñonez revealed that it was a network that spied on dozens of people and the investigations are still ongoing.¹⁸⁰⁴

1107. Among the victims of espionage are Juan Clari Arias and Jorge Torres, reporters for *Grupo Nación*. On April 17, Juan Clari Arias denounced irregularities in the functioning of his cell phone. According to the journalist, he was missing all the content and could not make calls. At that time, he contacted the phone

[asesinato del periodista Lourenço «Leo» Veras en Paraguay](#); ABC Paraguay. February 13, 2020. [Con 12 balazos asesinaron a Leo Veras, periodista de Pedro Juan](#); Committee to Protect Journalists (CPJ). February 14, 2020. [Brazilian journalist Léo Veras shot and killed in Paraguay](#).

¹⁸⁰⁰ IACHR. Office of the Special Rapporteur for Freedom of Expression. [Press Release R41/20 Office of the Special Rapporteur condemns murder of journalist Leo Veras in Paraguay and calls for decisive action to prevent and investigate crimes against journalists at the border](#). February 17, 2020.

¹⁸⁰¹ Infobae. September 28, 2020. [Instan a investigación exhaustiva por muerte de joven opositor paraguay](#). See also, La Nación. July 14, 2020. [DDHH exige que el MP profundice las investigaciones en caso Quintana](#).

¹⁸⁰² IACHR. Press Release 042/17. [IACHR Deeply Concerned over Acts of Violence and Repression in Context of Protests in Paraguay](#). April 3, 2017.

¹⁸⁰³ Coordinadora Derechos Humanos Paraguay. September 28, 2020. [31M: Codehupy monitorea causas judiciales ante posible impunidad y criminalización de víctimas](#).

¹⁸⁰⁴ Infobae. May 24, 2020. [Fiscales del Paraguay desmantelaron una poderosa red de espionaje y corrupción](#); ABC Paraguay. May 1, 2020. [Habría más implicados en esquema de robo de información de teléfonos](#).

company to make a claim, and a company representative told him that the problem was that a reprint of his chip had been requested. On April 24, journalist Jorge Torres announced on Twitter that his phone had also been compromised, and that someone had tried to access his Facebook account.¹⁸⁰⁵

1108. On April 28, police agents and prosecutors arrested Luis Bordón and Liz Carolina Centurión González, the two allegedly responsible for hacking the journalists' phones and also the phone of congress representative Carlos Antonio Rejala, according to the information received. Likewise, on April 30, Gerardo Fabián Martí, a lawyer affiliated with the opposition Authentic Radical Liberal Party and former director of the General Directorate of Statistics, Surveys, and Censuses in 2013 surrendered to the Police after an arrest warrant was issued against him and following a police raid in his home. According to the information available, Martí would be the alleged intellectual author of the information theft. All three individuals were arrested and charged with the crimes of criminal association and improper access to data and computer systems.¹⁸⁰⁶

1109. According to information provided by the Committee to Protect Journalists, journalist Juan Clari Arias assured that the hackers had accessed all the data on his cell phone, including the identity of all his journalistic sources and that therefore he was trying to rebuild his network of sources. "That is the greatest damage they have caused me," said the reporter.¹⁸⁰⁷

E. Subsequent Liabilities

1110. In 2019, the former vice minister of the State Tax Undersecretariat (SET), Marta González Ayala, filed an autonomous complaint against the journalist Juan Carlos Lezcano and the director of the newspaper *ABC Color*, Natalia Zuccolillo Pappalardo, arguing that they had been damaged by publications of the media that denounced the alleged commission of serious irregularities in the exercise of the position, specifically in relation to the award of the contract to update the Marangatú System of the SET to the Inter-American Center of Tax Administrations (CIAT).¹⁸⁰⁸ The former official requested in her judicial brief that prison sentences be applied in addition to a very high compensation for damages (more than USD1,400,000). The case was taken to oral trial but, the process did make progress on the merits for different reasons -superposition of public hearings, the Court suspended hearings due to the coronavirus, and a request for inhibition by the judge in the case. The Inter-American Press Association warned about this case, which could lead to a two-year prison sentence for press workers for reporting on irregularities in public management.¹⁸⁰⁹

F. Social Protest

1111. On July 29, after the Minister of Public Health and Social Welfare, Julio Mazzoleni, announced a setback in the relaxation of measures and the return to isolation in the department of Alto Paraná due to the increase in cases of coronavirus, a large number of people went out to demonstrate mainly in Ciudad del Este but also in other towns such as Minga Guazu and Hernandarias.¹⁸¹⁰ According to local media reports, in Ciudad del Este -the capital of Alto Paraná- protest concentrated on the La Amistad Bridge, which communicates with Brazil, where the protesters would have thrown stones and started fires with pyrotechnics, confronting police officers.¹⁸¹¹ According to available information, members of the Paraguayan

¹⁸⁰⁵ Diario Hoy. April 28, 2020. [Desbaratan banda contratada para "clonar" chips de periodistas y legislador](#); NPY. April 29, 2020. [Buscan a autor moral de hackeo a congresistas y periodista](#); La Nación. April 30, 2020. [Reporteros Sin Fronteras exige esclarecer espionaje a periodistas](#).

¹⁸⁰⁶ ABC Color. April 29, 2020. [Detenidos por duplicación de chips habrían consumado el robo de datos sensibles de periodistas](#).

¹⁸⁰⁷ Committee to Protect Journalists (CPJ). May 6, 2020. [Hackers steal information from 2 journalists covering COVID-19 and corruption in Paraguay](#).

¹⁸⁰⁸ La Nación. September 27, 2019. [Ex viceministra de la SET querrela a directora y periodista de Abc Color](#); ABC Color. September 27, 2020. [Publicaciones que molestaron a la exviceministra de la SET](#); Hoy. October 24, 2019. [Natalia Zuccolillo y su periodista irán a juicio oral por difamación](#).

¹⁸⁰⁹ Inter-American Press Association (IAPA). August 25, 2020. [Alerta de la SIP por pedido de cárcel para directora y un periodista de ABC Color](#).

¹⁸¹⁰ Telsur. July 29, 2020. [Reprimen protestas contra retroceso de la cuarentena en Ciudad del Este, Paraguay](#); Perfil. July 30, 2020. [Ciudad del Este: el anuncio de vuelta a fase 0 generó protestas y disturbios](#); ABC Paraguay. July 29, 2020. [Se diseminan protestas en CDE contra retroceso de cuarentena](#).

¹⁸¹¹ ABC Color. July 29, 2020. [Se desatan incidentes en CDE durante protestas con el gobierno](#).

National Police and Navy used rubber bullets to disperse the protests, leaving several individuals injured.¹⁸¹² Likewise, according to publicly known information, around 36 people have been charged by the Prosecutor's Office for disturbance of the public peace and resistance.¹⁸¹³

1112. This Office was also informed of a series of protests that led to criminal charges against protesters for alleged attacks against a historic building and against the flag, and some people were even charged with an alleged violation of quarantine. According to the information received, on September 2, 2020, two 11-year-old Argentine girls were murdered in the framework of an alleged confrontation between the Joint Task Force (JTF), made up of police and military, and an armed group that operates in the country.¹⁸¹⁴ The events have caused alarm and consternation in a large part of society due to alleged irregularities on the part of the state forces and the judicial and governmental authorities surrounding the case. In this context, on September 5, a group of people summoned themselves to peacefully protest at the Pantheon of Heroes of Paraguay, demanding that the events be thoroughly investigated and those responsible be punished.¹⁸¹⁵ However, a person would have managed to cross the perimeter fence and then made inscriptions on the walls of the building and set fire to an ornament with the colors of the Paraguayan flag. In the days that followed, Judge Gustavo Amarilla charged Paloma Chaparro Panimboza, Giselle Noemí Ferrer Pasotti, and Mariángela Guidita Abdala Carísimo, three feminist activists who participated in the protest, were charged for alleged violation of quarantine, disturbance of public peace, and damage to cultural heritage. According to publicly known information, Paloma Chaparro was detained during the hearing on the imposition of pre-trial measures. On the other hand, Mariangeles Abdala and Giselle Ferrer did not appear at the hearing, for which they were pronounced *in absentia*. The activists had previously published on their social networks that they were leaving the country for "not having guarantees from the Paraguayan State, which today is massacring their brothers".¹⁸¹⁶

G. Progress

1113. The Office of the Special Rapporteur welcomes the decision adopted on June 11, 2020 by the Supreme Court of Paraguay, which declared that the affidavits of the highest-ranking authorities of the Republic must be freely accessible to the public.¹⁸¹⁷ In this way, with a total of eight votes, the highest court decided not to allow the unconstitutionality action brought by the former head of the Comptroller General of the Republic, Enrique García. The ruling, which extensively reviews the legal framework and national and international jurisprudence on access to information, transparency, and corruption, was cited by the local press as a "historic" ruling and "a very important precedent in terms of transparency".¹⁸¹⁸

1114. Among other things, the judgment highlights that "the contested resolutions allow the republican principle of the Paraguayan State to be operationalized, in its dimension of publicity of the conduct of public officials and the effectiveness of the right of access to public information (...) Ultimately, knowledge of the private or functional conduct of public officials is relevant to assess their suitability, whether technical or moral, in public management and for this purpose must provide all information on their activity to facilitate citizen control of their suitability in managing. For such control to be effective, all official activity must be

¹⁸¹² NPY. July 29, 2020. [Heridos en violenta protesta de CDE contra retorno a fase 0](#); ABC Color. July 29, 2020. [Incendios, heridos y descontrol en zona de protestas en Ciudad del Este](#); Última Hora. July 29, 2020. [Policías y militares reprimen a manifestantes en protesta en Ciudad del Este](#); Télam. July 29, 2020. [Disturbios y represión en una protesta contra la vuelta a la cuarentena estricta en Ciudad del Este](#).

¹⁸¹³ La Nación Paraguay. July 31, 2020. [Noche de furia en CDE: imputan a 36 personas por destrozos y vandalismo](#); Hoy. July 31, 2020. [Tumulto en CDE: imputan a 34 manifestantes por los mismos delitos](#).

¹⁸¹⁴ Página 12. September 5, 2020. [Denuncian que dos niñas argentinas de 11 años fueron asesinadas por el ejército paraguayo](#); Infobae. September 5, 2020. [El caso de las niñas de 11 años que murieron en un enfrentamiento guerrillero puso en jaque las relaciones entre Paraguay y la Argentina](#).

¹⁸¹⁵ Hoy. September 5, 2020. [Profanan Panteón de los Héroes en "protesta" por muerte de niñas en el Norte](#); Última Hora. September 5, 2020. [En protesta por muerte de niñas, queman bandera y pintan muro del Panteón de los Héroes](#).

¹⁸¹⁶ Pronunciamento de la Coordinadora de Mujeres del Paraguay. ["Alzamos la voz en defensa de la democracia. Autoritarismo nunca más"](#). September 16, 2020; ANRed. September 17, 2020. [Paraguay: detienen a militante feminista que se manifestó contra el asesinato de las niñas a manos del ejército](#); ABC. 17 de septiembre de 2020. [Declaran en rebeldía a dos procesadas por daños al Panteón de los Héroes](#).

¹⁸¹⁷ Corte Suprema de Justicia de Paraguay, Sala Constitucional. Acuerdo y Sentencia N° 111/2020. [Acción de inconstitucionalidad promovida por la Contraloría General de la República en los autos caratulados: amparo constitucional promovido por el señor Juan Carlos Lezcano flecha c/ Contraloría General de la República](#). June 11, 2020.

¹⁸¹⁸ ADN Político. June 11, 2020. [Declaraciones juradas de funcionarios serán públicas, según dispuso la Corte Suprema de Justicia](#); ABC Color. June 12, 2020. [En un histórico fallo, Corte ordena que se publiquen declaraciones juradas](#); Última Hora. June 21, 2020. ["El fallo que obliga a publicar las DDJJ es un cambio paradigmático"](#).

reported to the original owners of the public power, which is the citizenry. It considered that all conducts of officials should be exposed to the public, because all conducts of official is of interest to the public to control their actions”.

1115. In 2020, the Office took note of various attacks and intimidation against journalists and the media, who are also often the target of criminal proceedings for their coverage and investigations on issues of high public interest. Furthermore, in the context of social protests motivated by government policies to prevent COVID-19, excessive use of force against protesters was observed. As a result of these events, which also includes the murder of a journalist who covered organized crime and drug trafficking, the Office of the Special Rapporteur reminds the Paraguayan State that:

1116. **The murder of journalists constitutes the most extreme form of censorship, and impunity contributes to the self-censorship of the press.** States have a positive obligation to identify and punish the perpetrators of these crimes. As the IACHR and its Office of the Special Rapporteur have repeatedly stated, it is essential that the State fully, effectively, and impartially investigate the murders of journalists, clarify their motives, and judicially determine the relationship they may have to journalistic activity and freedom of expression. Authorities should not rule out the practice of journalism as a motive for the murder and/or assault before the investigation is completed. The omission of logical lines of investigation or the lack of diligence in the collection of evidence in this regard can have serious repercussions on the development of the processes in the stages of accusation or trial. Not having completely exhausted the logical lines of investigation entails, above all, that the intellectual authors cannot be identified. Likewise, the Office of the Special Rapporteur recalls that the States must ensure that crimes against freedom of expression are subject to independent, prompt, and effective investigations and judicial procedures.

1117. **Attacks and aggressions committed against journalists and against the press violate the right to freedom of expression both in its individual and collective dimensions and cannot be tolerated in a democratic society.** The Office of the Special Rapporteur Principle reminds that 9 of the Declaration of Principles on Freedom of Expression of the IACHR states that “[t]he murder, kidnapping, intimidation of, and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of States to prevent and investigate such occurrences, to punish their perpetrators, and to ensure that victims receive due compensation.”

1118. **The use of criminal mechanisms to punish speech on matters of public interest, especially related to public officials, is incompatible with inter-American standards.** Principle 11 of the Declaration of Principles on Freedom of Expression of the IACHR states that: “[p]ublic officials are subject to greater scrutiny by society. Laws that penalize offensive expressions directed at public officials, generally known as “*desacato* laws,” restrict freedom of expression and the right to information.” Furthermore, the IACHR has argued that the use of criminal law in these cases does not respond to a pressing social need that justifies it, is unnecessary and disproportionate, and can be a means of indirect censorship given its discouraging effect on the debate on matters of interest public.¹⁸¹⁹

1119. **Illegal surveillance actions against journalists prevent the full development of the right to freedom of the press.** In addition to directly interfering with the freedom to seek, receive and impart information, this type of surveillance could put informants and confidential sources of the press at risk. Any measure aimed at seizing journalistic material, which requires releasing sources, or summoning journalists as witnesses, has a restrictive effect on freedom of expression. According to Principle 8 of the Declaration of Principles on Freedom of Expression of the IACHR, “every social communicator has the right to keep his/her source of information, notes, personal, and professional archives confidential.”

1120. **Social protest, which includes the rights to peaceful assembly without arms, association, and freedom of expression, is a fundamental tool in the defense of democracy and human rights.** In this sense, it has been indicated that “the criminalization in itself of demonstrations in public streets when they are carried out within the framework of the right to freedom of expression and the right to assembly is in

¹⁸¹⁹ IACHR. [Annual Report 2015. Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter V (Conclusions and Recommendations). OEA/Ser. L/V/II. Doc. 48. December 31, 2015.

principle inadmissible”.¹⁸²⁰ In its report on Protest and Human Rights, the IACHR noted that criminalization has a chilling effect on all of society and may lead to preventing or inhibiting this type of expression. Furthermore, the IACHR has understood that the use of force constitutes “a last resort that, qualitatively and quantitatively limited, seeks to prevent an event of greater gravity than the one provoked by the State’s reaction. Within this framework characterized by exceptionality, both the Commission and the Inter-American Court have agreed that, for the use of force to be justified, the principles of legality, absolute necessity, and proportionality must be met”.¹⁸²¹

¹⁸²⁰ IACHR. [Report on Citizen Security and Human Rights](#). OEA/Ser.L/V/II.Doc. 57. December 31, 2009. Par. 197

¹⁸²¹ IACHR. [Annual Report 2015. Office of the Special Rapporteur for Freedom of Expression](#). Chapter IV A. OEA/Ser. L/V/II. Doc. 48. December 31, 2015. Par. 7.

PERU

1121. In 2020, Peru was one of the countries most affected by the pandemic in the region and with the highest risk for press workers. The Office of the Special Rapporteur observes with concern various acts of verbal and physical violence against journalists and the persistent use of judicial harassment through criminal figures as a mechanism to pressure and silence investigative journalism. While this Office positively values the ruling of the Constitutional Court that recognized the right to protest as a constitutional right, it also notes with concern the excessive use of police force against protesters and journalists and the detentions carried out during the protests called in November 2020. During its working visit, the IACHR and its Office of the Special Rapporteur received numerous testimonies reporting the use of rubber pellets against protesters and the injuries caused by the use of metal pellets. According to the available information, there have been at least 40 cases of attacks on journalists, of particularly seriousness the cases of the photographer from the newspaper *El Comercio*, Alonso Chero and of Alonso Balbuena from *Ojo Público*.

A. Progress

1122. On July 3, 2020, the Constitutional Court of Peru made a transcendent decision for the country and the region, recognizing the right to protest as a constitutional right.¹⁸²² The case came to the Court due to a lawsuit of unconstitutionality presented by the Puno Bar Association against Legislative Decree 1237 that modifies the crime of extortion (art. 200 of the Penal Code), published on September 26, 2015 in the official gazette *El Peruano*.¹⁸²³ The lawsuit was sponsored by the Institute of Legal Defense, the Association for Life and Human Dignity of Cusco, Human Rights Without Borders of Cusco, and the Human Rights and Environment Office of Puno.

1123. The plaintiff argued that the norm in its original wording denatured the crime of extortion and was did not recognize the nature of the acts of protest in many parts of the Andes and the Amazon, allowing the preventive detention of social leaders just for participating in a protest where a public road has been taken. The Court declared the claim unfounded because it did not gather the five votes necessary to declare the challenged provision unconstitutional (it received four favorable and three unfavorable votes). However, it made an extensive interpretation of Decree 1237 in which it cites on several occasions the standards and principles elaborated by the Office of the Special Rapporteur on the recognition of the right to protest as a way to exercise the right to assembly and freedom of expression. The ruling links the right to protest with the democratic principle and that of popular sovereignty; ratifies criminal law as the *ultima ratio*; stresses the importance of dialogue mechanisms to deal with conflicts that may arise on the matter; and maintains that the right to protest is “connected” with the “exercise of other fundamental freedoms, such as freedom of opinion, expression, and dissemination of thought, the right to strike, freedom of movement, and the right of association”. Finally, the ruling also points out the importance of any eventual regulation on protest meeting the conventional and constitutional obligations of the country in terms of respect for human rights.

B. Threats, attacks, and judicial harassment of journalists and the media

1124. According to the information received by the Office of the Special Rapporteur, on February 13, the journalist Carlos Enríquez Salinas, host of the television program “Tierra Nuestra”, was physically attacked by businessman Alfredo Quispe Muguersa when he appeared to cover a scheduled judicial proceeding, the purpose of which was to inspect a land in dispute involving the businessman, in the Nuevo Chimbote district.¹⁸²⁴ The businessman, accused of usurpation of the land, approached the journalist with insults and asked him to leave the place, and then began to hit him hard on the head and chest.

¹⁸²² Tribunal Constitucional de la República del Perú. July 3, 2020. [Expediente 00009-2018-PI/TC. Sentencia del Tribunal Constitucional](#); Instituto de Defensa Legal (IDL). July 7, 2020. [Tribunal Constitucional reconoce por primera vez el derecho fundamental a la protesta](#).

¹⁸²³ Diario Oficial El Peruano. September 26, 2015. [Decreto Legislativo N° 1237](#).

¹⁸²⁴ La República. February 13, 2020. [Chimbote: empresario golpeó brutalmente a periodista](#); Radio RSD. February 13, 2020. [Nuevo Chimbote: periodista es brutalmente atacado durante diligencia fiscal](#); El Ferrol. February 13, 2020. [Periodista sufre brutal golpiza por](#)

1125. Likewise, on February 21, the reporter and news director of *Radio San Pedro*, Jimmy Castillo Gamarra, was attacked by an official of the municipality of San Marcos, when he was leaving the building where the station operates.¹⁸²⁵ According to publicly known information, the aggressor -identified by the journalist as Richar Huaccho Sigueñas- reportedly hit him several times with a bottle of beer and with his fists, warning him to "stop bothering the mayor." The attack caused a deviation of the nose and bruises in various areas of his body. Weeks before the event, the communicator and his journalistic team had published a series of investigations into acts of corruption in which the mayor of San Marcos, Christian Palacios Laguna, and some trusted officials, among them Richar Huaccho Sigueñas, were involved.

1126. The Office of the Special Rapporteur has also documented harassment and threats against journalists during 2020. On January 29 in the morning, a team from the Callao No. 12 Corporate Provincial Criminal Prosecutor's Office and a team of approximately 40 agents from the Peruvian National Police (PNP) went to the home of the journalist and editor of the Politics section of *Diario Expreso*, María Teresa García, to request recordings of the security cameras of her home that would allow the perpetrators of a robbery that occurred in the previous days to be identified. According to the journalist, the prosecution team insistently requested that she give them the laptop, to which she refused, for which they answered that if she did not collaborate with the prosecution operation, she would have to answer to a judge for her actions. Finally, the journalist provided the prosecution team, on a USB stick, with the requested videographic material.¹⁸²⁶

1127. On January 31, journalists Hugo Gonzales and Yldefonso Espinoza of the *Noticiero Libre* portal requested protection guarantees from the Regional Prefecture of Ancash for the alleged death threats, surveillance, and intimidation of which he was being victim.¹⁸²⁷ According to journalists, the threats occurred after various notes linking the congresswoman from Unión Por el Perú (UPP) María Isabel Bartolo Romero with the criminal organization "Los seco de la cordillera blanca". As the journalist Espinoza pointed out in his judicial presentation, after this article he began to observe the presence of strangers and even that of a vehicle with the license plate covered at night (...) with the apparent intention of intimidating or attempting an attack against his life or that of his relatives. On his side, the journalist Gonzales denounced having suffered a death threat publicly through Facebook.

1128. On February 13, journalists Javier Condor Ticlavilca -independent journalist in Pichari, Cusco- and Willy Villa Navarro -director of *La Calle* radio station in San Francisco, Ayacucho- reported being threatened by followers of Julián Pérez (known as "Cheldo") , a coca grower leader from Vraem, and requested guarantees from the authorities for the protection of their lives and those of their families, which were ultimately granted.¹⁸²⁸ According to publicly known information, Pérez is the current secretary general of the Federation of Agrarian Producers of the Apurímac River Valley (Fepavrae) and on other occasions he has already threatened to kill opponents.

1129. Cartoonist Carlos Tovar -also known by the pseudonym "Carlín"- of the newspaper *La República* stated that he had received numerous threats and attacks after publishing a cartoon in which he portrayed former President Alan García, who committed suicide last year.¹⁸²⁹ This Office observed with special concern

[supuesto invasor de Chinecas](#); Huarney. February 13, 2020. [Ancash: Periodista Carlos Enríquez Salinas, fue agredido durante diligencia fiscal en Chimbote](#).

¹⁸²⁵ Committee to Protect Journalists (CPJ). February 27, 2020. [Peruvian journalist Jimmy Castillo assaulted by local government employee](#); Asociación Nacional de Periodistas de Perú. February 24, 2020. [ANP condena agresión a periodista en Ancash](#).

¹⁸²⁶ *Diario Expreso*. January 31, 2020 [Gobierno quiere silenciar a EXPRESO](#); IPYS. January 30, 2020. [Perú: en desmesurado operativo allanan casa de la Editora de Política de diario opositor para esclarecer un robo](#); El Comercio. January 30, 2020. [IpyS pide esclarecer posibles irregularidades en el allanamiento de la vivienda de una periodista del diario Expreso](#).

¹⁸²⁷ IPYS. February 1, 2020. [Perú: periodistas piden garantías ante amenazas y seguimiento](#); *Noticiero Libre*. February 3, 2020. [Piden garantías por amenazas de muerte y reglaje](#); Committee to Protect Journalists (CPJ). February 12, 2020. [Peruvian journalists threatened, surveilled over coverage of politician](#).

¹⁸²⁸ *La República*. February 18, 2020. [Periodistas denuncian ser amenazados por líder cocalero del VRAEM](#); IPYS. February 13, 2020. [Perú: periodistas piden garantías tras amenazas de líder cocalero del VRAEM](#); *La Voz de Perú*. April 16, 2020. [Medios y periodistas de Perú, acosados con demandas penales y civiles](#).

¹⁸²⁹ Twitter account of Carlos Tovar Samanez (@tovar_samanez). [April 22, 2020](#); IPYS. April 22, 2020. [Perú: caricaturista político denuncia amenazas de muerte](#); Mano Alzada. April 22, 2020. [Carlín es amenazado de muerte por apristas](#); Wayka. April 23, 2020. [Fiscalía puede abrir investigación de oficio por amenazas a caricaturista «Carlín»](#); Committee to Protect Journalists (CPJ). April 28, 2020. [Peruvian political cartoonist Carlos Tovar Samanez receives death threats](#).

the statements on Twitter by Salvador Heresi, former Minister of Justice of the current Government: “the threats are[sic] well deserved. Also if they beat to the ground”.¹⁸³⁰

1130. On the other hand, this Office took note of several arbitrary detentions of journalists within the framework of the movement restrictions established by the Government due to COVID-19. On the night of March 18, journalist Martín Gonzales Salazar was rebuked by a police patrol when he was returning home after working hours on the *Cosmos Televisión* channel in the city of Pruno.¹⁸³¹ According to the information received, three agents of the National Police of Peru approached him to ask him why he was walking down the street at that time, to which the journalist explained that for his journalistic work he was protected by a Decree of the Executive. After identifying himself with ID and his journalist card, and showing the safe-conduct, one of the agents told him “this is not valid in the State of Emergency, it is only for the mornings”, asking the communicator to get into the vehicle to be transferred to the Puno Police Station, where he was held for about half an hour.

1131. On the night of March 28, Ralph Zapata, regional editor of the *Ojo Público* portal, was working at his home in Villa La Legua when a group of ten police officers intervened his home and detained him, transferring him to the local police station by force, violently, and barefoot for allegedly violating the curfew.¹⁸³² Minutes before the intervention, Zapata was working on a report on the pandemic, in coordination with Nelly Luna Amancio, general editor of the portal. At the police station, the journalist called his colleague, but they immediately asked him to stop communicating and put his cell phone away. *Ojo Público* was able to communicate with the Ministry of the Interior to report the act of violence against the communicator, and around 10:00 pm he was released. The Ministry of the Interior later issued a statement based on the version of the police officers, stating that the journalist was outside his home and in the company of other people when he was arrested and that at no time did the Police enter his home¹⁸³³, a version which was later refuted by the media with evidence.¹⁸³⁴

1132. Likewise, according to publicly known information, on the morning of April 10, journalist Marco Antonio Morán from *Radio Integración* was detained by the police and taken to the Mazamari police station, Satipo province, accused of disturbing public order.¹⁸³⁵ There a noncommissioned officer told him that he had committed an infraction while showing him a publication that he had made the day before. It was a post by the journalist on his Facebook account where he reported that someone infected with Covid-19 had arrived at the Mazamari Health Center, publishing the name and age of the alleged infected person. At the request of a police officer, the journalist identified himself by showing his documents, including his National Association of Journalists card. The police told him that it was worthless and that, on the contrary, he needed an academic document as support, also arguing that his name did not appear in the National Superintendency of Higher University Education. Two hours later, the police officers called the prosecutor on duty, Felipe Efraín Ochoa Altamirano, to deliver the documentation against Marco Antonio Morán. Finally, while the journalist was waiting in a cell, the prosecutor called him to tell him that he had not committed any crime, but that he should “be careful with the actions he takes from that moment.” As this Office learned, several journalists from the province of Satipo said that these events could be in retaliation for their investigations related to irregularities in the management of public agencies.

¹⁸³⁰ Twitter account of Salvador Heresi (@SalvadorHeresi). [April 22, 2020](#); Bolavip. April 22, 2020. [Carlín denunció amenazas por su caricatura y Heresi le respondió: “Que te revienten a golpes”](#).

¹⁸³¹ Pachamama Radio. March 20, 2020. [Asociación de Periodistas del Perú \(ANP\) rechazó exceso policial contra el periodista Martín Gonzales en la ciudad de Puno](#); Wayka. March 25, 2020. [Puno: Policías detienen arbitrariamente a periodista durante «toque de queda»](#).

¹⁸³² Ojo Público. March 28, 2020. [Piura: Policía saca de su casa a editor regional de OjoPúblico y lo traslada por la fuerza a la comisaría](#); IPYS. March 29, 2020. [Perú: policía detiene ilegalmente a periodista](#); El Regional Piura. March 29, 2020. [Piura: Policía de la Legua detuvo en su vivienda a periodista Ralph Zapata](#); Andina. March 29, 2020. [PNP: intervención de periodista Zapata en Piura se produjo en la vía pública](#); Noticias Ser. March 30, 2020. [Piura: la detención de un periodista entre dos versiones](#).

¹⁸³³ Twitter account of Ministerio del Interior de Perú. (@MininterPeru). [March 29, 2020](#); El Tiempo. March 29, 2020. [Mininter niega abuso de autoridad en caso de periodista piurano](#).

¹⁸³⁴ Ojo Público. March 28, 2020. [Piura: Policía saca de su casa a editor regional de OjoPúblico y lo traslada por la fuerza a la comisaría](#); El Regional Piura. March 29, 2020. [Ministerio del Interior niega abuso policial en caso de periodista Ralph Zapata. “Ojo Público” lo desmiente](#).

¹⁸³⁵ IPYS. April 12, 2020. [Perú: policía detiene a periodista acusándolo de alterar del orden público](#); La República. April 12, 2020. [Junín: detienen a sujeto por revelar identidad de un presunto paciente con coronavirus](#); Andina. April 12, 2020. [Junín: intervienen a sujeto por publicación tendenciosa sobre propagación de covid-19](#); Gaceta Ucayalina. April 12, 2020. [Junín: Intervienen a sujeto por publicación tendenciosa sobre propagación de Covid-19](#); Asociación Nacional de Periodistas de Perú (ANP). April 28, 2020. [ANP condena excesos policiales contra periodista en Mazamari](#).

1133. This Office also took note of the disappearance of the Cable *Vraem* reporter, Daysi Lizeth Mina Huamán, on January 26 in the city of Ayacucho.¹⁸³⁶ On the day of her disappearance, the journalist had voted in the legislative elections of Peru in the town of Santa Rosa (La Mar province) and, according to publicly known information, she would have covered the elections around 3:30 pm. According to the information received, the reporter joined the Cable *Vraem* media two weeks before her disappearance. According to the statements of her relatives in the media, it is known that Daysi Mina was in a bus terminal in Santa Rosa, from where she would leave for Carmen Pampa, Ayna San Francisco district, to meet her partner. Days later, some of her belongings were found in areas near the Santa Rosa-San Francisco highway. The investigation is reportedly under the Criminal Investigation Division (DIVINCRI) of Kimbiri (Cusco), together with the Ayna-San Francisco Prosecutor's Office. On July 26, after six months of the disappearance of the young reporter, the National Press Association denounced in a statement the "indolence of the police authorities and the Prosecutor's Office in the investigation and search for the journalist" and stressed the "slow actions in the inquiries" by the National Police and the Prosecutor's Office.¹⁸³⁷

1134. On September 3, the Ethics Court of the Peruvian Press Council declared with merits the complaint of the communicator Yanira Dávila Herrera against Grupo La República, considering that a note published on the website of the newspaper *La República* in which they signaled against the journalist was "questionable" in terms of journalistic ethics and a trigger for gender violence online.¹⁸³⁸ According to the Ethics Court, "from the content of the note it is clear that Grupo La República was or could foresee the verbal offenses and attacks that Mrs. Dávila could receive through social networks (...). The outcome noted by Mrs. Dávila, consisting of a significant number of aggressive and threatening comments to human dignity and respect for women's rights, highlights the absence of the duty of care that the aforementioned media should have considered (...)." ¹⁸³⁹

1135. In October, journalists from the province of Jaén denounced harassment by senior officials of the Provincial Municipality in retaliation for their information work, which would include preventing coverage and verbal attacks. According to the available information, this would be linked to the coverage of the local channel *Visión TV*, which showed how municipal officials would have celebrated the birthday of the Deputy Manager of Inspection, Liz Yanet Campos Martínez, without observing the protocols and regulations in force during the state of national emergency. Days later, municipal police officers prevented the journalist Clever Monteza Hernández, from *Visión TV*, from accessing an official activity in which the provincial mayor, José Francisco Delgado Rivera, was present. The reporter remained outside the premises and, at the end of the activity, waited for the mayor to leave to consult him about what happened at the birthday party of the Assistant Manager of Inspection, to which José Francisco Delgado Rivera would have replied that the journalists act as an "executioner and hit man".¹⁸⁴⁰ Likewise, on October 9, police agents prevented the journalist from *Radio Marañón*, Cristian Oblitas García, from entering an official activity in which the Assistant Manager of Inspection, Liz Yanet Campos Martínez, participated, and they would not have allowed him to approach her to get a statement, unlike other media. According to public information, the police agents indicated to another journalist that they had an explicit order to restrict access to Cristian Oblitas.¹⁸⁴¹

1136. This Office was also informed that on October 27, police agents from the city of Ica together with officials from the Prosecutor's Office had raided the privately owned television channel *Cadena Sur Canal 15*, *Radio Sistema*, and *Radio La Mega*, following a complaint filed by Mónica Guillén, wife of the regional governor

¹⁸³⁶ IPYS. February 23, 2020. [Perú: Periodista ayacuchana se encuentra desaparecida desde hace 27 días](#); La República. February 24, 2020. [Periodista de Ayacucho está desaparecida desde hace un mes en el Vraem](#); Committee to Protect Journalists (CPJ). February 28, 2020. [Journalist Daysi Lizeth Mina Huamán missing in Peru](#); RPP Noticias. March 4, 2020. [Personas desaparecidas: En Perú aún no funcionan los sistemas de información y búsqueda que prometen las normas](#).

¹⁸³⁷ Asociación Nacional de Periodistas del Perú (ANP). July 26, 2020. [ANP: 6 meses sin Daysi, periodista desaparecida en el VRAEM](#).

¹⁸³⁸ Waika. September 6, 2020. [Caso Yanira Dávila: Tribunal de Ética exhorta a Grupo La República a no propiciar el ciberacoso](#); Diario Expreso. September 5, 2020. [Yanira Dávila: Tribunal de Ética del Consejo de Prensa Peruana declara fundada queja en contra de la República](#).

¹⁸³⁹ Waika. September 6, 2020. [Caso Yanira Dávila: Tribunal de Ética exhorta a Grupo La República a no propiciar el ciberacoso](#); Diario Expreso. September 5, 2020. [Yanira Dávila: Tribunal de Ética del Consejo de Prensa Peruana declara fundada queja en contra de la República](#).

¹⁸⁴⁰ Asociación Nacional de Periodistas del Perú (ANP) / Facebook. [October 13, 2020](#); Sqala TV. October 14, 2020. [Jaén | Periodistas denuncian impedimento de coberturas y maltrato de autoridades](#).

¹⁸⁴¹ Asociación Nacional de Periodistas del Perú (ANP) / Facebook. [October 13, 2020](#); Sqala TV. October 14, 2020. [Jaén | Periodistas denuncian impedimento de coberturas y maltrato de autoridades](#).

of Ica, Javier Gallegos, who claimed to be the victim of alleged "trolls" attack.¹⁸⁴² The intelligence police reportedly detected that the alleged attacks came from devices located in the buildings of said media. According to the information provided by the media representatives, the police contingent seized computers, laptops, and cell phones. Upon entering the headquarters of *Canal 15*, the police contingent also tried to turn off the transmitters, causing damage to the equipment and the consequent getting the channel off the air. In *Radio Sistema*, the transmitter, among other technological equipment from the channel and the administrator's family, was allegedly taken, leaving the radio off the air.¹⁸⁴³ On the other hand, in the days that followed, the journalist Ricardo Herrera, host of *Radio Exitosa* in the city of Ica, reportedly received threats through his wife, who received a message urging her to "tell her family to shut up".¹⁸⁴⁴ The threat would be linked to a report by the journalist on the alleged irregular use of public resources that would involve the wife of the regional governor of Ica.¹⁸⁴⁵

1137. Likewise, on October 26, the Directorate of Inspection and Instruction (DFI) of the Ministry of Justice and Human Rights began an administrative sanctioning process against the weekly *Hildebrandt en sus Trece* for an alleged violation of the Personal Data Protection Law, which could derive in an economic sanction up to 215 thousand soles which, according to the media, in practice would mean their economic bankruptcy.¹⁸⁴⁶ According to the information received by the Office of the Special Rapporteur, in recent years there has been a growing trend in the use of legal actions for the alleged violation of said law, with the aim of intimidating journalists and the media.

C. Subsequent liabilities

1138. During 2020, the Office of the Special Rapporteur continued to observe a trend in the use of criminal figures by officials and public persons to obstruct journalistic investigations on issues of public interest. Thus, for example, on February 1, the journalist and former editor of the newspaper *Correo*, Rolando Rodrich Sarango, was notified that the Third Single-Person Criminal Court of Piura admitted for processing the defamation complaint that the regional governor of Piura, Servando García Correa, had filed against him, accusing him of affecting his honor and demanding the maximum penalty and a reparation of 2 million soles. The grievance would be related to a column published by the journalist in 2019 in which he would have questioned the work of García Correa.¹⁸⁴⁷

1139. In addition, Maritza Adela Díaz de La Cruz, sister of the provincial mayor of Cañete, would have legally harassed journalist Ernesto Guillermo Peña Huari, from *Radio y Televisión Activa*, for alleged offenses to her honor, image, and good reputation through the national media. The accusation would be related to public statements by the journalist in which he claimed to have collected documents signed by the mayor's sister that would prove alleged links of the official with land trafficking networks.¹⁸⁴⁸ In her notarized letter, Maritza Adela Díaz de la Cruz indicated that the "unsupported" statements of the communicator would have affected her psychologically. According to the information available, the reporter had already been the victim of a harassment campaign on social networks, for which he had decided to go to a national media to make the public complaint. As stated by civil society, this is not the first time that Maritza Díaz de la Cruz has starred in an incident against the local press in Cañete.¹⁸⁴⁹

¹⁸⁴² La Lupa. October 27, 2020. [Fiscalía interviene canal "Cadena Sur" en Ica propiedad de Gastón Medina \(Video\)](#). IPYS. October 29, 2020. [Perú: Fiscalía y Policía allanan tres medios de comunicación](#); Committee to Protect Journalists (CPJ). November 3, 2020. [Peruvian police raid offices of television and radio outlets in Ica, confiscate equipment](#).

¹⁸⁴³ Asociación Nacional de Periodistas del Perú (ANP) / Facebook. [October 29, 2020](#).

¹⁸⁴⁴ Exitosa Noticias / Youtube. October 28, 2020. [Amenazan a periodista de Exitosa Ica por denunciar presunto caso de corrupción](#); Asociación Nacional de Periodistas del Perú (ANP) / Facebook. [October 29, 2020](#).

¹⁸⁴⁵ Exitosa Noticias / Youtube. October 28, 2020. [Amenazan a periodista de Exitosa Ica por denunciar presunto caso de corrupción](#).

¹⁸⁴⁶ Servindi. November 7, 2020. [Condenamos intento de cerrar semanario "Hildebrandt en sus trece"](#); Asociación Nacional de Periodistas del Perú (ANP). [November 8, 2020](#).

¹⁸⁴⁷ Lo dice la gente. February 4, 2020. [Piura: Poder Judicial admite querrela del gobernador regional contra periodista](#); Noticias Piura 3.0. February 2, 2020. [Admiten querrela contra el periodista y exdirector de diario Correo, Rolando Rodrich](#); Asociación Nacional de Periodistas del Perú (ANP). [Informe de la Oficina de los Derechos Humanos del Periodista](#) January-April 2020.

¹⁸⁴⁸ Asociación Nacional de Periodistas del Perú / Facebook. [September 4, 2020](#).

¹⁸⁴⁹ Asociación Nacional de Periodistas del Perú / Facebook. [September 4, 2020](#).

1140. During 2020, this Office also received information on the different criminal and civil proceedings that journalist Paola Ugaz Cruz has faced since 2018 for exercising her work.¹⁸⁵⁰ The attacks would be linked to her participation in the book "Half monks, half soldiers" by the journalist Pedro Salinas, who denounced an alleged history of sexual, physical, and psychological abuse within the religious organization El Sodalicio de Vida Cristiana (SVC), as well as also for a subsequent financial investigation that would have identified alleged acts of corruption on the part of the religious order. Said processes were filed by persons related to the organization, for the alleged commission of the crimes of aggravated defamation, false testimony, and criminal organization.

1141. On February 25, the provincial criminal prosecutor of Piura, Hedy Huaylinos, admitted the appeal of complaint filed by businessman Carlos Alberto Gómez de la Torre Pretell, linked to the Sodalicio de Vida Cristiana, to continue with the complaint for the alleged crime of false testimony against Paola Ugaz. According to the complainant, the journalist committed false testimony in the trial against Pedro Salinas, denying that she was the producer of the documentary "The Sodalitium Scandal" for the *Al Jazeera* network.¹⁸⁵¹ According to the information available, Carlos Alberto Gómez de la Torre Pretell also reported Paola Ugaz in Piura and Lima for alleged defamation, for which he requested 3 years in prison and 2 million soles in civil reparation.¹⁸⁵²

1142. Likewise, the journalist also faces a process for aggravated defamation under the Ninth Criminal Court of Lima, derived from a complaint filed in 2019 by Luciano Revoredo Rojas, a former candidate for the Congress of Peru and director of the news and opinion website *La Abeja*. Luciano Revoredo Rojas maintains that the journalist allegedly defamed him and his website by qualifying it as a "defamatory media" for which he requested a civil compensation of 200 thousand nuevos soles (around 56 thousand US dollars), a sentence of three years in prison, and an additional fine for the journalist.¹⁸⁵³

1143. In this context, the Office of the Special Rapporteur was informed that in September 2020, Paola Ugaz and Pedro Salinas were subject to suspicious surveillance by unknown individuals.¹⁸⁵⁴ Likewise, on October 2, the journalist reported having received a death threat on her social networks from an unknown person. "You will die. Reds, the Peruvian Charlie Hebdo is coming. We are going to fumigate them with lead," the message indicated, alluding to the attack on the French satirical weekly in 2015.¹⁸⁵⁵ Paola Ugaz also denounced an alleged smear campaign against her launched with accusations of money laundering and participation in criminal organizations.¹⁸⁵⁶

1144. On the other hand, in March 2020 the journalist Daniel Yovera was also accused of alleged defamation by Carlos Gómez de la Torre Pretell, after revealing information for the *Al Jazeera* chain about an alleged case of land trafficking in the district of Castilla, Piura province, which would involve companies and individuals linked to the Sodalicio de Vida Cristiana.¹⁸⁵⁷ The reporter was summoned by the Judiciary to attend the first hearing on November 19, but according to the information available it was suspended due to the absence of the judge.¹⁸⁵⁸

¹⁸⁵⁰ Deutsche Welle (DW). January 4, 2020. [Perú: la SIP deplora acoso legal contra periodista](#); IPYS. January 6, 2020. [Perú: periodista denuncia acoso judicial en represalia por sus investigaciones](#); Consejo de la Prensa Peruana. January 6, 2020. [El Comercio y La República rechazan hostigamiento contra Paola Ugaz](#); Instituto de Defensa Legal (IDL). January 6, 2020. [Sociedad Interamericana de Prensa rechaza acoso legal contra periodista Paola Ugaz \(La República\)](#)

¹⁸⁵¹ Waika. March 6, 2020. [Sodalicio: Fiscalía retoma denuncia contra la periodista Paola Ugaz](#); Instituto de Defensa Legal (IDL). March 10, 2020. [Ligado al Sodalicio logra que revisen denuncia archivada en favor de periodista Ugaz \(La República\)](#)

¹⁸⁵² La República. January 2, 2020. [Denuncias a Paola Ugaz buscan que no investigue al Sodalicio](#)

¹⁸⁵³ Committee to Protect Journalists (CPJ). September 22, 2020. [Investigative journalist Paola Ugaz faces criminal defamation suit in Peru](#); El Comercio. September 27, 2020. [Poder Judicial decidirá si se abre un nuevo juicio contra la periodista Paola Ugaz](#); Knight Center for Journalism in the Americas. October 21, 2020. [Peruvian journalist faces new defamation lawsuit and denounces smear campaign against her](#); La República. October 29, 2020. [Abren nuevo proceso a Paola Ugaz y crece apoyo para ella](#); Pen International. November 9, 2020. [Day of the Imprisoned Writer 2020 - Take Action for Paola Ugaz](#)

¹⁸⁵⁴ Archive of the Office of the Special Rapporteur for Freedom of Expression; IPYS. September 15, 2020. [Perú: periodistas denuncian sospechoso seguimiento](#)

¹⁸⁵⁵ Asociación Nacional de Periodistas del Perú / Facebook. [October 10, 2020](#)

¹⁸⁵⁶ LatAm Journalism Review. October 21, 2020. [Periodista peruana enfrenta nueva demanda de difamación y denuncia campaña de desprestigio en su contra](#); Pen International. November 9, 2020. [Day of the Imprisoned Writer 2020 - Take Action for Paola Ugaz](#)

¹⁸⁵⁷ Wayka. March 3, 2020. [La maquinaria judicial que persigue a testigos y periodistas que denunciaron al Sodalicio](#)

¹⁸⁵⁸ Wayka. November 19, 2020. [Sodalicio: otro periodista es querrellado tras revelar presunto tráfico de tierras](#); Fundación Gustavo Mohme Llona. November 23, 2020. [Periodista enfrenta querrela luego de revelar presunto tráfico de tierras](#)

D. Social protest

1145. Between November 9 and 15, a series of social protests took place throughout the country after the Peruvian Congress voted in favor of the vacancy motion against President Martín Vizcarra and declared his "permanent moral incapacity." As a result of these events, the IACHR made a working visit to Peru from November 29 to December 2, 2020, with the aim of observing the human rights situation on the ground in the context of social protests.¹⁸⁵⁹

1146. According to the information received by the IACHR and its Office of the Special Rapporteur, the protests were mostly attended by young people and students who took to the streets to express their dissatisfaction with the decision of Congress. Particularly in the city of Lima, various acts of violence were reported. The National Police allegedly used tear gas and pellets in a massive and indiscriminate manner that injured protesters, in order to disperse the protests.¹⁸⁶⁰ In this context, two young men, Jordan Inti Sotelo Camargo and Jack Bryan Pintado Sánchez, lost their lives and at least 200 people were reportedly injured, including some members of the Police.¹⁸⁶¹ According to the Ombudsman's Office, at least 47 people were detained between November 10 and 14, 2020.¹⁸⁶²

1147. It was reported to this Office that several people had been required by the police to sign acts of intervention and detention, without the presence of the Prosecutor's Office and without legal advice due to the refusal of the police to authorize, in certain cases, communication between the detainees and lawyers from the National Human Rights Coordinator (CNDDHH), aspects that call into question the right of defense. The Office of the Special Rapporteur was also informed about the presence of plainclothes police officers who allegedly infiltrated the demonstrations to detain people, despite the fact that they must be in uniform and identified. The Office of the Special Rapporteur highlights that the infiltration and other similar activities of covert intelligence on protesters without a court order is particularly serious.

1148. On the other hand, ballots were issued against the protesters with administrative sanctions for violations of the rules on confinement and social isolation, such as Supreme Decree No. 006-2020-IN.¹⁸⁶³ Based on said rule, sanctions of S/.387 nuevos soles were imposed by equating participation in a protest with holding social and recreational gatherings. According to information received, the foregoing is being done with the aim of dissuading people from demonstrating, despite the importance of the right to protest for democracy and the existence of less restrictive measures based on criteria of necessity and proportionality, such as the use of masks and social distancing.

1149. The Office of the Special Rapporteur also received information about attacks on journalists and photojournalists as part of its work covering the protests, both in Lima and in other parts of the country. In this regard, during its working visit to Peru, the IACHR and its Office of the Special Rapporteur received information on at least 40 cases of attacks on journalists, the cases of the photographer of the newspaper *El Comercio*, Alonso Chero, and that of Alonso Balbuena, from *Ojo Público*.¹⁸⁶⁴ In the first case, and according to what the Commission was informed, Alonso Chero was hit by a projectile in the back and, after surgery, a

¹⁸⁵⁹ IACHR. December 7, 2020. [Press Release 290/2020. IACHR Ends Working Visit to Peru.](#)

¹⁸⁶⁰ Espacio. November 13, 2020. [Una nube de gas lacrimógeno cubre el centro de Lima en una nueva noche de protestas](#); Human Rights Watch. December 17, 2020. [Peru: Serious Police Abuses Against Protesters](#); Notimerica. November 13, 2020. [La Defensoría del Pueblo de Perú pide a la Policía que deje "inmediatamente" de usar gas lacrimógeno en las protestas.](#)

¹⁸⁶¹ Convoca. November 14, 2020. [Evidencias y testimonios confirman abusos de la Policía en las manifestaciones de protesta contra el gobierno de Merino](#); El País. November 15, 2020. [Dos fallecidos y decenas de heridos por la represión policial contra las protestas en Perú](#); BBC News. November 15, 2020. [Renuncia Manuel Merino: la ola de protestas en Perú que dejó dos muertos y 100 heridos y culminó con la dimisión del presidente](#); Coordinadora Nacional de Derechos Humanos. November 18, 2020. [Verdad y Justicia para la Generación del Bicentenario y para todo el País.](#)

¹⁸⁶² IACHR. December 7, 2020. [Press Release 290/2020. IACHR Ends Working Visit to Peru.](#)

¹⁸⁶³ AP Noticias. November 10, 2020. [Violencia y represión: postales de las manifestaciones contra asunción de Merino y vacancia a Vizcarra - FOTOS](#); Wayka. November 11, 2020. [Primer día de gobierno de Merino deja decenas de heridos y detenidos](#); IACHR. Office of the Special Rapporteur for Freedom of Expression. November 13, 2020. [Press release R274/20 Office of the Special Rapporteur Expresses Grave Concern about the Excessive Use of Police Force against Demonstrators and Journalists and about Arrests during Protests in Peru.](#)

¹⁸⁶⁴ Ojo Público. November 12, 2020. [Policía hiere a periodista de OjoPúblico que cubría marcha nacional en Perú](#); El Comercio. November 14, 2020. [Agresión policial a dos periodistas de El Comercio: "Estaba registrando la marcha y sentí el proyectil en la espalda"](#); Committee to Protect Journalists (CPJ). November 16, 2020. [At least 35 journalists injured covering anti-government protests in Peru.](#)

glass marble was extracted. In the case of Alonso Balbuena, police officers fired a tear gas canister at close range and directly at his leg, destroying a considerable part of his muscle mass.¹⁸⁶⁵

1150. On the other hand, the Office of the Special Rapporteur also received information that on August 8, three indigenous people from the Kukama Kukamiria community were killed by shots fired by the National Police in the framework of a protest against the State and the Canadian oil company PetroTal in Lot 95, in the Amazon region of Loreto.¹⁸⁶⁶ A statement from the Regional Organization of the Indigenous Peoples of the East (ORPIO) indicated that the demonstration was intended to express rejection towards “the oil company and the State in the face of the abandonment and death of their relatives due to lack of treatment, medicines because of the COVID-19”.¹⁸⁶⁷ According to available information, the protesters were allegedly repressed by the National Police after an agent was wounded by a projectile. As indicated by the Ministry of the Interior in a statement, “the residents were provided with lances and backloads (pellets) and demanded the stoppage of the work on the referred oil camp known as Lot 95”.¹⁸⁶⁸

E. Prosecution

1151. On September 3, the Third Transitory National Criminal Chamber Specialized in Organized Crime rescheduled the hearing at the beginning of the new oral trial against Daniel Urresti, congressman of Podemos Peru and pre-candidate for the presidency of the Podemos Peru party, for the murder of the journalist of the *Caretas* magazine, Hugo Bustíos, perpetrated on November 24, 1988 in the city of Ayacucho.¹⁸⁶⁹ The rescheduling of the hearing was requested by the defense of Daniel Urresti and was set for November 26, 2020¹⁸⁷⁰. The Prosecutor's Office requested that he be sentenced to 25 years in prison as the alleged mediate perpetrator of the murder of the communicator. Prosecutor Luis Pinto Saavedra, from the first National Criminal Superior Prosecutor's Office, considers that Urresti was the one who told his subordinates to end the life of the journalist by order of the Huanta military chief, Víctor La Vera Hernández.¹⁸⁷¹ Likewise, according to public information, at the beginning of the new trial the Prosecutor's Office also requested a civil compensation of 500 thousand soles.¹⁸⁷² On his part, the congressman and presidential candidate stated that they would be “restricting” his right to “unrestricted defense” in the new oral trial since he would not be allowed to speak orally with his lawyer during the hearing.¹⁸⁷³

1152. This is the second oral trial to which the former Minister of the Interior is subjected in the case of Hugo Bustíos. On October 5, 2018, Collegiate B of the National Criminal Chamber acquitted him after considering that there were no grounds to prove his responsibility for the journalist's murder. However, in April 2019 the Permanent Criminal Chamber of the Supreme Court concluded that the judges who dismissed the accusation had not adequately assessed the testimonial and documentary evidence, for which it annulled the acquittal and ordered a new trial.

1153. As this Office was informed, Daniel Urresti would have used the criminal process for the murder of journalist Hugo Bustíos in his presidential campaign in his favor, insisting on his innocence. The candidate would have published images and messages in a humorous tone, some in response to the media. “When you cover the mouths of those who said you killed Bustíos and now they say that you are only a mediate perpetrator”, “The truth breaks through! The hoax of the witness who said that he saw Urresti kill Hugo

¹⁸⁶⁵ IACHR. December 7, 2020. [Press Release 290/2020. IACHR Ends Working Visit to Peru.](#)

¹⁸⁶⁶ Deutsche Welle (DW). August 9, 2020. [Perú: protesta contra petrolera deja indígenas muertos y heridos en Amazonía](#); El País. August 9, 2020. [Tres indígenas mueren por disparos de la policía en Perú](#); AP News. August 9, 2020. [Perú: 3 muertos en protesta contra petrolera en la Amazonía.](#)

¹⁸⁶⁷ Organización Regional de los Pueblos Indígenas del Oriente (ORPIO). August 9, 2020. [ORPIO se pronuncia ante la muerte de tres indígenas en enfrentamiento del Lote 95 en Loreto.](#)

¹⁸⁶⁸ Twitter account of Ministerio del Interior de Perú (@MininterPeru). [August 9, 2020.](#)

¹⁸⁶⁹ Asociación Nacional de Periodistas del Perú (ANP). [September 1, 2020.](#) El Comercio. September 3, 2020. [Daniel Urresti: Poder Judicial reprograma inicio de juicio oral por caso Hugo Bustíos](#); Agencia Andina. September 2, 2020. [Caso Bustíos: Poder Judicial reprograma reinicio de juicio oral contra Daniel Urresti](#); Panamericana Tv. September 3, 2020. [Caso Hugo Bustíos: juicio oral contra Daniel Urresti fue reprogramado.](#)

¹⁸⁷⁰ Gestión. October 23, 2020. [Caso Urresti: PJ inicia el 26 de noviembre nuevo juicio por el asesinato de Hugo Bustíos.](#)

¹⁸⁷¹ Canal N. November 26, 2020. [Fiscalía acusa a Daniel Urresti como presunto autor mediato del asesinato de Hugo Bustíos.](#)

¹⁸⁷² Canal N. November 26, 2020. [Fiscalía acusa a Daniel Urresti como presunto autor mediato del asesinato de Hugo Bustíos.](#)

¹⁸⁷³ El Comercio. December 10, 2020. [Daniel Urresti sobre juicio por caso Hugo Bustíos: “Se está cortando mi derecho a una defensa irrestricta”.](#)

Bustíos fell. The prosecutor did NOT accuse the general as the direct author of that death,” some of his publications point out.¹⁸⁷⁴

F. Government advertising

1154. The Office of the Special Rapporteur was informed about the existence of four bills that would be under discussion in the Peruvian Congress to regulate the granting of government advertising to the media, presented by Eduardo Acate Coronel of Alianza para el Progreso (APP), Luis Carlos Simeón of Acción Popular, José Luna Morales of Podemos Peru, and Daniel Osedad (Frepap). The initiatives have a common point, which is to prioritize government advertising for media that have at least 50% local programming. In general terms, the proposals were criticized by local specialists and even prompted a statement by the Inter-American Press Association that warned that government advertising must be distributed with technical, transparent, and equitable criteria, and taking into account the media in accordance with the scope of their audiences, geography, and characteristics.¹⁸⁷⁵

G. Other relevant situations

1155. Since the beginning of the pandemic, Peru has positioned itself as one of the most affected countries in the region, both in the number of infections and deaths from the coronavirus. The National Association of Journalists of Peru estimates that at least 39 journalists have died from coronavirus, infected while doing their work.¹⁸⁷⁶

1156. In June, Chris Valery Villalobos Muñoz, a former employee of the newspaper *Prensa Chalaca*, denounced the dismissal she suffered by the company after being diagnosed with COVID-19, as a result of her work as a reporter. When seeking support in the media, they told her that "all the responsibility for the contagion for going out without protective equipment" fell on her. According to the information received, the outlet took several weeks to provide Personal Protective Equipment (PPE) to its reporters, despite the high levels of vulnerability represented by front-line coverage work. Until then, the PPEs were the responsibility of each journalist, so until the end of March the workers of the newspaper *Prensa Chalaca* carried out coverage without the required sanitary protection.¹⁸⁷⁷

1157. The Office of the Rapporteur observes that there are pre-existing conditions of serious labor informality for media workers in Peru, and that they were accentuated during the pandemic. The lack of income from the media in the months of quarantine triggered drastic labor measures. In this sense, there were numerous arbitrary dismissals of journalists in different media, such as Grupo La República and El Comercio; printing of the sports newspaper *El Bocón* was suspended; the *Publimetro* portal closed definitively; and significant wage cuts were applied.¹⁸⁷⁸ According to the National Association of Journalists of

¹⁸⁷⁴ Útero. November 27, 2020. [Siempre se puede caer más bajo: Urresti usa el caso Bustíos para pedir votos](#).

¹⁸⁷⁵ El Comercio. August 21, 2020. [Congreso evalúa proyectos para regular la publicidad estatal](#); Perú 21. August 21, 2020. [Andrés Calderón: "Dar publicidad no puede ser premio o castigo"](#); La República. August 27, 2020. [Proyectos sobre publicidad estatal afectarán libertad de información](#); Inter-American Press Association (IAPA). September 8, 2020. [Peru: IAPA Reiterates Concepts on Regulation of Official Advertising](#); Diario Correo. September 8, 2020. [Sociedad Interamericana de Prensa reitera conceptos sobre regulación de la publicidad oficial](#); Gestión. September 8, 2020. [SIP reitera que publicidad estatal debe ser distribuida con criterios técnicos](#).

¹⁸⁷⁶ Asociación Nacional de Periodistas del Perú / Facebook. [October 1, 2020](#); International Journalists' Network (IJNet). July 30, 2020. [Perú lamenta el deceso de más de 50 periodistas por causa del COVID-19](#); AP News. August 20, 2020. [Saldo de pandemia entre periodistas es muy elevado en Perú](#); IPYS. August 19, 2020. [ANP: 82 periodistas fallecidos por COVID-19 en 5 meses de emergencia nacional en el Perú](#); Inter-American Press Association (IAPA). August 7, 2020. [The IAPA awards the 2020 Press Freedom Grand Prize to journalists and press workers killed by COVID-19](#).

¹⁸⁷⁷ ANP. June 13, 2020. [ANP se solidariza con comunicadora que denuncia abandono de empresa periodística](#); Nteve. June 12, 2020. [Periodista denuncia maltrato laboral luego de contagiarse de COVID por quehacer reporteril](#); Crónica Viva. June 13, 2020. [Periodista denuncia maltrato laboral tras contraer Covid-19 por quehacer reporteril](#).

¹⁸⁷⁸ El Comercio. May 23, 2020. [El diario público El Tiempo de Cuenca despedirá a sus colaboradores, pero aún no son notificados](#); Wayka. June 3, 2020. [Diez periodistas peruanos murieron por COVID-19 y decenas enfrentan despidos arbitrarios](#); Bolavip. June 4, 2020. [Víctima del COVID: reconocido diario peruano dejará de circular a partir de este viernes](#); ANP. June 13, 2020. [ANP contra los despidos y cierre de diarios del grupo El Comercio](#); Colegio de Periodistas de Lima. June 16, 2020. [Periodistas de Lima critican a dueños de empresas periodísticas por despidos](#); Diario Uno. June 24, 2020. [Muertes, contagios, despidos, desamparo y cierre de medios](#); Konrad Adenauer Stiftung. Julio 2020. [El rol de los medios de comunicación en el Perú durante la Pandemia. Reflexiones en el marco del Seminario Online Conversaciones PolítIKAS realizado el June 25, 2020](#).

Peru, journalists from the regions, as independent workers, would be the ones who suffered the greatest impact of the health, economic, and social crisis.¹⁸⁷⁹

1158. The generalized situation of dismissals in journalistic companies prompted pronouncements by the Lima Association of Journalists, the Federation of Journalists of Peru and the National Association of Journalists of Peru, who asked the Minister of Labor and Employment Promotion, Sylvia Cáceres Pizarro, to address the situation of irregular dismissals under the pretext of the health and economic crisis.¹⁸⁸⁰

1159. After the officialization of the “Reactiva Peru” Plan to support companies to continue paying salaries to their employees and suppliers, some of the main media groups requested support from these state loans, among them Grupo El Comercio, Grupo Enfoca, Grupo CRP, Grupo La República, Grupo RPP, Grupo ATV, and Grupo Capuñay, according to the data that emerge from the list of 71 thousand beneficiaries revealed by the Minister of Economy, María Antonieta Alva.¹⁸⁸¹ In this way, almost 100 million Peruvian soles (US\$ 7.5 billion) went to companies related to the main media groups in the country. Even despite having accessed this type of state assistance measures or mechanisms, some media applied the perfect suspension of work, as is the case with ATV.

1160. In light of the events recorded by the Office of the Special Rapporteur during 2020, it is important to remind the State that:

1161. **Attacks and aggressions committed against journalists and against the press violate the right to freedom of expression both in its individual and collective dimensions and cannot be tolerated in a democratic society.** The Office of the Special Rapporteur recalls that Principle 9 of the Declaration of Principles on Freedom of Expression of the IACHR states that “[t]he murder, kidnapping, intimidation of, and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of States to prevent and investigate such occurrences, to punish their perpetrators, and to ensure that victims receive due compensation.”

1162. **The use of criminal mechanisms to punish speech on matters of public interest, especially related to public officials, is incompatible with inter-American standards.** Under Article 13 of the American Convention, speeches on matters of public interest have reinforced protection, especially those that express essential elements of identity or denounce situations of violence and structural discrimination. Principle 11 of the IACHR Declaration of Principles on Freedom of Expression establishes that “[p]ublic officials are subject to greater scrutiny by society. Laws that penalize offensive expressions directed at public officials [...] restrict freedom of expression and the right to information.” The IACHR has understood that the use of criminal acts of slander, insult, and defamation as a mechanism for assigning subsequent liabilities, when dealing with specially protected speeches, generates a chilling effect on the exercise of the right to freedom and inhibits investigative journalists who report on matters of public interest.

1163. **Social protest, which includes the rights of peaceful assembly without arms, association, and freedom of expression, is a fundamental tool in the defense of democracy and human rights.** Both in its individual and collective exercise, protest is aimed at publicly expressing opinions, visions, or values of dissent, opposition, denunciation, or claim, as well as demanding the fulfillment of rights. In this sense, it has been pointed out that “the criminalization *per se* of demonstrations in public streets when they are carried out within the framework of the right to freedom of expression and the right of assembly is, in principle, inadmissible”.¹⁸⁸² Furthermore, the IACHR has understood that the use of force constitutes “a last resort that, qualitatively and quantitatively limited, seeks to prevent an event of greater gravity than the one provoked by the state reaction. Within this framework characterized by exceptionality, both the Commission and the Inter-American Court have agreed that, for the use of force to be justified, the principles of legality, absolute

¹⁸⁷⁹ Asociación Nacional de Periodistas del Perú / Facebook. [October 1, 2020.](#)

¹⁸⁸⁰ Colegio de Periodistas de Lima. June 18, 2020. [Colegio de Periodistas de Lima reclama a ministra de trabajo por despidos de periodistas](#); Prensa Latina. June 21, 2020. [Gremios de periodistas denuncian despidos masivos en Perú.](#)

¹⁸⁸¹ Ojo Público. [Banco de Crédito concentró gran parte de los S/100 millones prestados a grupos mediáticos del Perú.](#) June 14, 2020; Convoca. June 15, 2020. [Reactiva Perú: mineras, clínicas, medios de comunicación y universidades entre las que concentran más de S/5 mil millones en préstamos](#); Ojo Público. June 20, 2020. [#OjoPúblicoPregunta: La pandemia desnuda la crisis de la industria de medios.](#)

¹⁸⁸² IACHR. [Report on Citizen Security and Human Rights.](#) OEA/Ser.L/V/II.Doc. 57. December 31, 2009. Par. 197

necessity, and proportionality must be met".¹⁸⁸³ This Office reiterates that no participant in protests may be subjected to illegal or arbitrary detention and that States must refrain from engaging in practices of mass, collective, or indiscriminate detentions in public demonstrations. In its Protest and Human Rights report, the IACHR and its Office of the Special Rapporteur indicated that any detention that is based exclusively on the act of participating in a protest or public demonstration does not meet the requirements of reasonableness and proportionality established by international standards. The deprivation of liberty during a demonstration has the immediate effect of preventing the detained person from exercising the right to protest and has an inhibitory effect on participation in public demonstrations. In addition, they highlighted that all detained persons, their families, and the persons who exercise their legal representation have the right to receive from the State precise information regarding the reasons for their arrest and the place where they will be taken in simple language, free of technicalities.

1164. The murder of journalists constitutes the most extreme form of censorship, and impunity contributes to the self-censorship of the press. States have a positive obligation to identify and punish the perpetrators of these crimes. As the IACHR and its Office of the Special Rapporteur have repeatedly stated, it is essential that the State fully, effectively, and impartially investigate the murders of journalists, clarify their motives, and judicially determine the relationship they may have to journalistic activity and freedom of expression. Authorities should not rule out the practice of journalism as a motive for the murder and/or assault before the investigation is completed. The omission of logical lines of investigation or the lack of diligence in the collection of evidence in this regard can have serious repercussions on the development of the processes in the stages of accusation or trial.¹⁸⁸⁴ Not having completely exhausted the logical lines of investigation entails, above all, that the intellectual authors cannot be identified.¹⁸⁸⁵

1165. The distribution of government advertising must be guided by democratic criteria and pre-established, public, and transparent procedures that guarantee conditions of equal opportunities. The Office of the Special Rapporteur recalls that the Declaration of Principles on Freedom of Expression of the IACHR, in its principle 13, indicates that "the exercise of power and the use of public funds by the state, the granting of customs duty privileges, the arbitrary and discriminatory placement of official advertising and government loans; the concession of radio and television broadcast frequencies, among others, with the intent to put pressure on and punish or reward and provide privileges to social communicators and communications media because of the opinions they express threaten freedom of expression, and must be explicitly prohibited by law."

¹⁸⁸³ IACHR. [Annual Report 2015. Office of the Special Rapporteur for Freedom of Expression](#). Chapter IV A. OEA/Ser. L/V/II. Doc. 48. December 31, 2015. Par. 7.

¹⁸⁸⁴ IACHR. Office of the Special Rapporteur for Freedom of Expression. [Special Study on the Status of Investigations into the Murders of Journalists during the 1995-2005 Period for Reasons that may be Related to their Work in Journalism](#). OEA/Ser.L/V/II.131. Doc. 35, March 8, 2008, par. 116.

¹⁸⁸⁵ *Ibidem*, par. 125-126; IACHR. Office of the Special Rapporteur for Freedom of Expression. [Impunity, self-censorship and armed internal conflict: An analysis of the state of freedom of expression in Colombia](#). OEA/Ser.L/V/II Doc.51. August 31, 2005, par. 65-66.

DOMINICAN REPUBLIC

1166. In 2020, the Office of the Special Rapporteur received information about attacks, threats, and intimidation against journalists by different spheres of the government, as well as the security forces. In the context of the pandemic, on several occasions the press was limited in its work due to illegitimate detentions due to the curfew, despite the fact that they were exempted from mobility restrictions by presidential decree. Press workers were also limited in their exercise during the elections, both at the municipal level and at the presidential and legislative level. The Office of the Special Rapporteur welcomed the decision of the Fourth Criminal Chamber of the National District, which declared extinct the process for alleged defamation and insult against the journalist Marino Zapete, an audiovisual media reporter and who currently works at the *Teleradio América* channel, promoted by Maybeth Rodríguez, sister of Attorney General Jean Alain Rodríguez Sánchez, after the journalist disclosed alleged acts of corruption committed by the siblings.

A. Attacks, threats, and intimidation of journalists and the media

1167. The Office of the Special Rapporteur documented various physical and verbal attacks, as well as threats and intimidation against reporters from different media, several of which occurred in the electoral context that the country experienced in 2020.

1168. Thus, for example, in the framework of municipal elections, on March 12 the photojournalist Samuel Pichardo was attacked with stones by José Rafael Inoa, leader of the Dominican Liberation Party, when he took pictures of a truck from which they were supposedly unloaded food from the Social Plan at the leader's home, in the city of San Francisco de Macorís. In the images broadcasted by various media, José Rafael Inoa could be seen trying to prevent the journalist from recording the event.¹⁸⁸⁶

1169. On March 14, Faustino Reyes Díaz, a correspondent for *Listín Diario* and *Grupo Telemicro*, reported that he was attacked by members of the Dominican Liberation Party (PLD) when he was working in the municipality of Neyba, on the eve of the municipal elections. According to the journalist, they had tried to take away the cellphone with which he was filming in public space, but later he was helped by neighbors and police officers.¹⁸⁸⁷ Likewise, on March 26, the Dominican Association of Journalists denounced that Faustino Reyes was the victim of threats with weapons by "policemen dressed in black" who were patrolling the area of his residence in Los Alcarrizos, and allegedly presented themselves violently at his door to demand he came out because "the commander wanted to talk to him," to which the communicator refused.¹⁸⁸⁸ As reported by Faustino Reyes, the event would have occurred on the night of March 25, minutes after the president gave a speech on the contingencies of the COVID-19 pandemic. The Dominican Association of Journalists repudiated the threat against him and asked the director of the National Police for protection for

¹⁸⁸⁶ Qué Política. March 12, 2020. [VÍDEO: Dirigente del PLD agrede reportero gráfico por grabar camión con raciones del Plan Social en SFM](#); El Pregonero. March 12, 2020. [VÍDEO: Dirigente político del PLD agrede reportero en SFM](#); Hoy. March 14, 2020. [Camarógrafo denuncia agresión de dirigente PLD](#); El Jacaguero. March 14, 2020. [Camarógrafo denuncia agresión de dirigente PLD](#).

¹⁸⁸⁷ La Lupa del Sur. March 15, 2020. [Periodista denuncia intento de agresión en Neyba](#); Ecos del Sur. March 15, 2020. [Turba del PLD intenta agredir corresponsal de Listín Diario y Telemicro](#); Colegio Dominicano de Periodistas / Facebook. [March 26, 2020](#).

¹⁸⁸⁸ Colegio Dominicano de Periodistas / Facebook. [March 26, 2020](#); Santo Domingo Digital. March 26, 2020. [CDP denuncia "patrulla PN" amenaza de muerte a periodista en Los Alcarrizos](#); Noticias al tiempo. March 26, 2020. [CDP denuncia "patrulla PN" amenaza de muerte a periodista Faustino Reyes](#); Noticias Dominicanas. March 26, 2020. [CDP denuncia «patrulla PN» amenaza de muerte al periodista Faustino Reyes de Los Alcarrizos](#); Alcarrizos News. March 29, 2020. [CDP denuncia que patrulla de PN amenaza de muerte a periodista en Los Alcarrizos](#).

the journalist's life. The journalist was again harassed and attacked on April 5, 2020 at night, when agents of the National Army detained and handcuffed him for two hours in the municipality of Neyba, when he recorded and took photos in the streets during the curfew established by the Government as a contingency measure against the pandemic.¹⁸⁸⁹ According to the available information, the communicator had been mocked and physically mistreated, as well as deprived of his cellphone, from which they erased all the audiovisual work material that he kept. The Dominican Association of Journalists condemned what happened and stressed that the arrest of Faustino Reyes Díaz was in disregard of presidential decree 135-20, which exempts press workers throughout the country from movement restrictions due to curfew.

1170. This Office learned that, in the first months of the pandemic and supposedly by virtue of the curfew restrictions, journalist Miguel Eduardo Taveras Bejarán of Santiago de Los Caballeros, would have been detained by the Police, who handcuffed him, put him in a vehicle, stripped him of his camera and took him to the police station as a detainee. This, despite having identified himself as a journalist and being covered by the presidential decree that allows them to circulate even when the curfew applies.¹⁸⁹⁰

1171. Likewise, the journalist Robert Vargas, founding director of the *Ciudad Oriental* digital portal, was reportedly intimidated by a member of the security forces of the mayor of the Santo Domingo East municipality, Manuel Jiménez. As the reporter denounced in his own media, on April 24 a man from the municipal chief's security circle approached him aggressively, minutes before he was sworn in, removing his "mask" and warning him in a threatening way "from today on Manuel Jiménez is the mayor".¹⁸⁹¹

1172. This Office also received information on the threats received by the journalist from *Noticias Telemicro*, Sandy Familia, in the framework of an act of the Coffee Growers Association in support of the candidate of the ruling Dominican Liberation Party (PLD), Gonzalo Castillo. According to available information, members of the opposition Modern Revolutionary Party appeared to cause disturbances on the spot and, when the journalist proceeded to record the events, they began to physically and verbally attack him, calling him a "government journalist", and tried to snatch his camera, which was damaged in the brawl.¹⁸⁹²

1173. Among other worrisome events, in September officials from the General Customs Directorate (DGA) threatened journalists José Rivas and Mary Yerlin Paula with taking legal action against them if within 24 hours they did not withdraw from the digital portal *Cobiertatvonline.net*, that they direct, an article that signaled them as members of a group of civil servants prosecuted before the courts, which would affect their image.¹⁸⁹³ According to the available information, on September 4, the communicators received an "act of warning and placing in arrears", on behalf of the director of the DGA. The Dominican Association of Journalists called the President's attention to "instruct his officials that the right to investigate, seek, and disseminate truthful and objective information is a Constitutional right of journalists, especially when it comes to public entities and officials, who should and must be tolerant of criticism against them".¹⁸⁹⁴

1174. Of particular concern to this Office is the information about the statement made by the director of the Social Plan of the Presidency, Iris Guaba, against journalists Luis Eduardo -Huchi- Lora Iglesia and Altagracia

¹⁸⁸⁹ Vigilante informativo. April 6, 2020. [Militares de Neyba detienen periodista y destruyen material informativo](#); Vigilante informativo. April 6, 2020. [CDP condena detención y maltrato a periodista en Neyba por el Ejército](#); En Segundos. April 7, 2020. [Militares esposan periodista del Listín Diario y Telemicro en Neyba](#); Colegio Dominicano de Periodistas / Facebook. [April 6, 2020](#).

¹⁸⁹⁰ Colegio Dominicano de Periodistas. [May 3, 2020](#); Diario Libre. May 3, 2020. [Colegio Dominicano de Periodistas exige respecto al periodista y a su ejercicio](#).

¹⁸⁹¹ Colegio Dominicano de Periodistas. [April 25, 2020](#); Vigilante Informativo. April 25, 2020. [CDP condena amenazas e intimidación contra el periodista Robert Vargas](#).

¹⁸⁹² Noticias Telemicro. June 7, 2020. [VIDEO: Agreden periodista Sandy Familia en Elías Piña](#); La Nación Dominicana. June 7, 2020. [Miembros del PRM amenazan periodista Sandy Familia en Elías Piña, es de Telemicro](#); Vigilante Informativo. June 7, 2020. [VIDEO: Seguidores PRM agreden periodista Sandy Familia en Elías Piña](#); Notitemas. June 8, 2020. [Agreden periodista Sandy Familia en Elías Piña, CDP condena agresión](#); Últimas Noticias. June 8, 2020. [Colegio de Periodistas condena agresión contra reportero Sandy Familia del Grupo Telemicro](#).

¹⁸⁹³ Armario Libre. September 4, 2020. [Seis funcionarios Aduanas amenazan con someter a la justicia periodistas José Rivas y Mary Yerlin Paula si no retiran de su portal información en su contra](#); Enlace Temático. September 4, 2020. [Funcionarios de la Dirección General de Aduanas amenazan con llevar a tribunales a Periodistas José Rivas y Mary Yerlin Paula](#); Ciudad Oriental. September 5, 2020. [CDP rechaza amenazas contra los periodistas José Rivas y Mary Yerlin Paula del portal digital Coberturatvonline.net](#).

¹⁸⁹⁴ La Lupa del Sur. September 5, 2020. [Mercedes Castillo rechaza amenaza de Eduardo Sanz Lovatón a periodistas](#); Diario Digital. September 5, 2020. [CDP acusa a director DGA de amenazar periodistas](#).

Salazar, accusing them of "enemies of the government's social programs." In an audio that would have gone viral by instant messaging -and whose authorship was later recognized- the official ordered to attack journalists through social networks for their criticism of the body, especially for the questioning they had made about the decision to tender for appliances and household goods, just a few days before the municipal elections. "The important thing is not that you write here, the important thing is that you write out there, that you check the networks, everywhere. Check where the newsmakers, for example, look for Huchi Lora, Altagracia Salazar, Orlando Jorge Mera, look for them and harass them, he is stupid, taking advantage of an article that is not", can be heard in the audio that circulated in social media.¹⁸⁹⁵ Later, the journalist Luis Eduardo -Huchi- Lora Iglesia stated that it was not a "misstep" but that "it is the modus operandi of the government. They are enemies of freedom of expression and the right of citizens to free information".¹⁸⁹⁶

B. Access to public information

1175. In 2020, journalists and the media warned about obstacles to the fulfillment of their work by the national government. According to the information available, access of the press to the offices of senior officials in the National Palace would be limited, avoiding relevant information in a timely manner and even omitting information on events or meetings of public interest.¹⁸⁹⁷ In the framework of World Press Freedom Day, the Dominican Association of Journalists noted that in the coverage of COVID-19, several journalists from the different provinces saw their free professional practice violated. Also, in October, convened by UNESCO's Regional Office of Culture for Latin America and the Caribbean and the Dominican Association of Journalists, a group of communicators reflected on the special relevance of access to information in the context of the pandemic. In this framework, they pointed out that they demand the deployment of better active transparency strategies by public institutions, as well as a more efficient and systematic use, by the press and citizens, of Law 200-04 on Free Access to Public Information.¹⁸⁹⁸

C. Subsequent liabilities

1176. On January 24, 2020, the trial against Marino Zapete, an audiovisual media reporter and who currently works for the *Teleradio América* channel, began in the framework of a criminal proceeding for defamation brought by Maybeth Rodríguez, sister of Attorney General Jean Alain Rodríguez Sánchez.¹⁸⁹⁹ The criminal complaint was initiated in September 2019, after the journalist informed in his news program "El Jarabe" about alleged acts of corruption committed by the siblings in the framework of public infrastructure projects. According to information provided by the Committee to Protect Journalists, after the broadcast of the program in question, the Attorney General had called the owner of *Teleradio América*, threatening to file a legal action against the television channel. A month later, the journalist was fired from the channel, after refusing to retract.

1177. In the framework of the hearing held on January 24, the defense of Marino Zapete challenged Judge Franny González Castillo, of the Fourth Criminal Chamber of the National District, alleging that he would not be impartial in the matter as he had rejected most of the evidence presented in favor of the journalist without

¹⁸⁹⁵ Diario Libre. February 6, 2020. [AUDIO | Le atribuyen a Iris Guaba orden de atacar a periodistas y políticos que se oponen a compra de electrodomésticos](#); El Caribe. February 6, 2020. [\[AUDIO\] Iris Guaba admite que pidió ataques a periodistas para defenderse: Huchi le responde](#); Listin. February 7, 2020. [CDP rechaza ataques de directora del Plan Social contra comunicadores](#); Colegio Dominicano de Periodistas. [February 7, 2020](#); Acento. February 8, 2020. [CDP rechaza ataques de directora del Plan Social de la Presidencia contra periodistas](#); La Lupa del Sur. February 8, 2020. [Rechazan ataques Iris Guaba a Huchi y Altagracia Salazar](#).

¹⁸⁹⁶ Twitter account of Eduardo - Huichi- Lora Iglesia. [February 8, 2020](#).

¹⁸⁹⁷ Listin. September 21, 2020. [Injustificables trabas a la prensa](#).

¹⁸⁹⁸ UNESCO. October 8, 2020. [UNESCO y periodistas dominicanos defienden el ejercicio de un periodismo ético como garantía de acceso a la información confiable](#).

¹⁸⁹⁹ Committee to Protect Journalists (CPJ). January 23, 2020. [Dominican journalist Marino Zapete to face criminal defamation trial for corruption report](#); Listin Diario. January 24, 2020. [EN VIVO: Juicio contra periodista Marino Zapete](#); Hoy. January 24, 2020. [Esto dijo Marino Zapete tras juicio en su contra por difamación e injuria](#).

notifying him.¹⁹⁰⁰ The request was accepted by the Court of Appeal, designating Judge Teófilo Andújar to hear the case.¹⁹⁰¹

1178. The Office of the Special Rapporteur welcomes the decision taken on September 18, 2020 by the Fourth Criminal Chamber of the National District, which declared the process for alleged defamation and insult against the journalist extinguished and ordered Maybeth Rodríguez the payment of the costs of the process.¹⁹⁰²

D. Other relevant situations

1179. As in several of the countries in the region, the pandemic posed a difficult scenario for the economic survival of the media. In the framework of its 76th General Assembly, the Inter-American Press Association pointed out that in the Dominican Republic the crisis led to a high number of television and radio programs going off the air. Likewise, many of the national printed newspapers registered temporary and definitive reductions and suspensions of journalists, designers, and distributors, which affected the ecosystem of independent journalism.¹⁹⁰³ In a virtual discussion organized by the Dominican Association of Journalists, Nelson Peralta, the director of the economic and political sections of the newspaper *La Información* in the city of Santiago de los Caballeros, indicated that more than 20 journalists were suspended. However, he warned that the situation of the media "carries an economic crisis due to the elimination or cutback of advertising by important economic sectors and the migration of the audience to digital media", which in many cases resulted in a reduction of personnel in the printed newspapers.¹⁹⁰⁴

1180. Based on the attacks, threats and intimidation observed against journalists during 2020 in the Dominican Republic, as well as the illegitimate and disproportionate limitations to their work in the context of the pandemic, the obstacles in access to information, and the judicial progress in the matter of subsequent liabilities against the press, the Office of the Special Rapporteur reiterates that:

1181. **Attacks and aggressions committed against journalists and against the press violate the right to freedom of expression both in its individual and collective dimensions and cannot be tolerated in a democratic society.** The Office of the Special Rapporteur recalls that Principle 9 of the Declaration of Principles on Freedom of Expression of the IACHR states that "[t]he murder, kidnapping, intimidation of, and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of States to prevent and investigate such occurrences, to punish their perpetrators, and to ensure that victims receive due compensation."

1182. **The use of criminal mechanisms to punish speech on matters of public interest, especially related to public officials, is incompatible with inter-American standards.** Principle 11 of the IACHR Declaration of Principles on Freedom of Expression establishes that "[p]ublic officials are subject to greater scrutiny by society. Laws that penalize offensive expressions directed at public officials, generally known as "desacato laws," restrict freedom of expression and the right to information." In addition, the IACHR has held that the use of criminal law in these cases does not respond to a pressing social need that justifies it, is unnecessary and disproportionate, and can be a means of indirect censorship given its discouraging effect on the debate on matters of public interest.¹⁹⁰⁵

¹⁹⁰⁰ Diario Libre. January 24, 2020. [Periodista dominicano recusa a juez de instrucción en un caso por difamación](#); El Día. January 24, 2020. [Defensa de Marino Zapete recusa juez; excluyen a Gonzalo y otros cuatro testigos](#); Hoy. January 25, 2020. [Defensa de Zapete recusa a juez por excluir pruebas](#).

¹⁹⁰¹ Acento. February 14, 2020. [Acogen recusación y apartan a juez Franny González de caso Marino Zapete](#); El Caribe. February 14, 2020. [Acogen recusación contra juez conoce caso Marino Zapete](#).

¹⁹⁰² Últimas Noticias. September 18, 2020. [Marino Zapete demandará a Maybeth Rodríguez](#); Proceso. September 21, 2020. [Tras extinción de juicio en su contra, Zapete demandará a Maybeth Rodríguez](#).

¹⁹⁰³ Inter-American Press Association (IAPA). [Report to the 76 IAPA General Assembly](#). October 21 - 23, 2020; Listín Diario. October 21, 2020. [Pandemia provocó la caída de ingresos publicitarios y el cierre de programas de radio y TV](#); EFE. October 21, 2020. [La pandemia causa la muerte de periodistas y cierre de medios en R.Dominicana](#); Diario Libre. November 24, 2020. [Miquel Franjul plantea difícil crisis económica que sufren los medios de comunicación](#).

¹⁹⁰⁴ Colegio Dominicano de Periodistas. [May 11, 2020](#).

¹⁹⁰⁵ IACHR. [Annual Report 2015. Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter V (Conclusions and Recommendations). OEA/Ser. L/V/II. Doc. 48. December 31, 2015.

1183. **Transparency and accountability of public powers strengthen democratic systems.** In this sense, Principle 4 of the IACHR Declaration of Principles on Freedom of Expression establishes that “[a]ccess to information held by the State is a fundamental right of every individual. States have the obligation to guarantee the full exercise of this right. This principle allows only exceptional limitations that must be previously established by law in case of a real and imminent danger that threatens national security in democratic societies.” Likewise, the Office of the Special Rapporteur recalls that the IACHR Resolution on Pandemic and Human Rights highlights the importance of access to information in the current context due to COVID-19 and the crucial role that journalists play in the context of the health emergency by reporting on critical points and monitoring government actions. States have the obligation to allow access to official press conferences to all media, without discrimination based on editorial lines, except for the necessary and proportional measures to protect health.¹⁹⁰⁶

SAINT KITTS AND NEVIS

1184. The Office of the Special Rapporteur observes that the failure to implement the Freedom of Information Act two years on from its passage remains a pending challenge in St. Kitts and Nevis. Additionally, this Office observes that the political opposition faces a number of restrictions on access to State media, especially in electoral contexts. As in other countries of the Eastern Caribbean, defamation remains a criminal offense used by public officials to protect their honor and reputation in response to criticism from journalists, the media, and opposition politicians.

A. Access to public information

1185. Although the Freedom of Information Act was passed in 2018, it has yet to be implemented. In its last annual report, the Office of the Special Rapporteur noted that, according to Attorney General Vincent Byron, the law has yet to be implemented due to a lack of government funding to develop protocols and hire staff. He also said a “profound cultural change” among public servants with regard to government transparency was needed to ensure the law is implemented correctly.¹⁹⁰⁷

1186. On December 22, the Attorney General and Minister of Justice and Legal Affairs, Vincent Byron, told Parliament that the Integrity in Public Life Commission would meet in 2021 with the Office of the Attorney General to iron out several issues that needed to be addressed as the government pushes forward with its good governance agenda, including implementation of the Freedom of Information Act. The Attorney General added that efforts were ongoing to strengthen the legal framework to promote the system of transparency, good ethics, and accountability, and to fight against corruption.¹⁹⁰⁸

1187. Likewise, on October 27, during the Fifth Caribbean Economic Forum, Minister of Information and Communications Technology Akilah Byron-Nisbett remarked on the importance of reviewing certain existing legislation and policies, including the Freedom of Information Act, in order to achieve full digital transformation in St. Kitts and Nevis. She said they were “in the process of undergoing a review of our current legislation that are in place, many of which are scattered across a number of different legislation.”¹⁹⁰⁹ She also said that the government had submitted a new Electronic Communications Act to Parliament that aims to replace the Telecommunications Act and “provide a more upgraded regulatory framework for our

¹⁹⁰⁶ IACHR. Resolution No. 1/20. [Pandemic and Human Rights in the Americas](#). April 10, 2020.

¹⁹⁰⁷ IACHR. [Annual Report 2019. Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). OEA/Ser.L/V/II. Doc. 5. February 24, 2020. Par. 1101; Winn FM. June 1, 2020. [Konris and Drew Respond To Questions About SKNLP's Governance Record](#).

¹⁹⁰⁸ St. Kitts and Nevis Observer. December 22, 2020. [Public Life Commission to iron out good governance agenda issues](#); St. Kitts and Nevis Information Service. December 23, 2020. [Government continues to strengthen good governance agenda](#).

¹⁹⁰⁹ St. Kitts Observer. October 30, 2020. [Legislation, policy decisions key to achieving full digital transformation](#); Winn FM. October 31, 2020. [Legislation and Policy Decision Key To Achieving Full Digital Transformation, Says ICT Minister](#).

Telecommunications and ICT sectors.”¹⁹¹⁰ The minister also underscored the progress made by the government on transparency and access to public information in digital spaces.

B. Freedom of expression and COVID-19

1188. On March 17, following the outbreak of the pandemic and the circulation of presumably false information on the first cases of COVID-19 in St. Kitts and Nevis, Prime Minister Timothy Harris stated publicly that they would be a strong penalty for such “unpatriotic behaviour.”¹⁹¹¹ The Prime Minister said that attempts at disinformation during a moment of crisis cause confusion and disruption, putting citizens at a “disadvantage.” He also accused the opposition of being the ones mainly responsible for creating a “scare” and disrupting “the peace and calm of our country.”¹⁹¹² In this regard, he said that the law would be reviewed to ensure that such behavior is punished severely. “We will ask the Attorney General to spend some time looking at the legislative framework to deal with this, and other issues that are emerging,” he said.

1189. Likewise, on April 8, the Director-General of the St. Kitts and Nevis Information Service (SKNIS) and Chair of the COVID-19 Communications Task Force, Lesroy Williams, urged the media to access the accurate information provided by the government’s official sources. In response to a number of criticisms about the alleged scarcity of information on the management of the pandemic, he said there has been no “information vacuum” and that the daily briefings include the media to provide the public with “accurate, reliable, and timely information.”¹⁹¹³

1190. In the context of World Press Freedom Day, Labour Party leader Denzil Llewellyn Douglas said the government continues attacking freedom of the press and preventing media workers from accessing information. According to the former head of State, “Dissenting views are not tolerated and are routinely denounced as fake news, whilst pronouncements in favour of the government, however fictitious, are promoted as fact.”¹⁹¹⁴

1191. Also, in May, representatives of the Labour Party, filed a constitutional claim before the High Court against the Government of St. Kitts and Nevis and *ZIZ Broadcasting Corporation*, a State media company, for infringement of the rights and liberties of the Labour Party, its candidates and supporters, and society in general.¹⁹¹⁵ The claim called for an urgent hearing of the Court and sought a declaration that the State of Emergency Resolutions published by the Government on May 18 and May 13, 2020, were unconstitutional, and thus null, void, and of no effect on being passed contrary to section 19(7) of the Constitution. Labour Party representatives also asked the Court to find that the COVID-19 Emergency Regulations published by the government on May 8 were unlawful, disproportionately restrictive, and discriminatory against the St. Kitts-Nevis Labour Party and its supporters. The members of the opposition said that since the announcement of elections in May, despite the fact that the Emergency Regulations were in place, members of the Government and their supporters had been gathering in large numbers, while the police had been directed by their “superiors” to suppress similar opposition activities. Both allegations were rejected by the Eastern Caribbean Supreme Court.¹⁹¹⁶

1192. The Labour Party of St. Kitts and Nevis also requested a court order against State-owned media company ZIZ Broadcasting Corporation (ZBC), for violating its rights to equal protection, freedom of

¹⁹¹⁰ St. Kitts Observer. October 30, 2020. [Legislation, policy decisions key to achieving full digital transformation](#); Winn FM. October 31, 2020. [Legislation and Policy Decision Key To Achieving Full Digital Transformation, Says ICT Minister](#).

¹⁹¹¹ St. Kitts and Nevis Observer. March 18, 2020. [PM: There Will be a Strong Penalty for COVID-19 Scaremongering](#);

¹⁹¹² Times Caribbean Online. March 19, 2020. [St. Kitts Opposition Labour Party condemned for scaremongering and dissemination of fake news in effort to use COVID-19 to score political points](#); SKN Vibes. March 18, 2020. [Prime Minister Harris: There will be strong penalty for COVID-19 scaremongering](#).

¹⁹¹³ Nevis Pages. April 9, 2020. [No Information Vacuum On COVID-19, Says SKNIS Director General: Urges Media To Access Accurate Information From Official Sources](#).

¹⁹¹⁴ Antigua Newsroom. May 4, 2020. [ST KITTs: Former PM Douglas Renews SKNLP’s Commitment To Press Freedom; Documents Several Initiatives Of His Administration](#).

¹⁹¹⁵ Winn FM. May 27, 2020. [Labour Challenges State of Emergency In Court, Sues ZIZ For Breach of Constitutional Rights of Labour Party and Its Candidates](#); Mena FM. May 27, 2020. [St Kitts Nevis labour party files legal challenge on ‘State of Emergency’, State owned media house](#); Loop News Caribbean. May 28, 2020. [St Kitts-Nevis: Gov’t sued for ‘unconstitutional’ State of Emergency](#); SKN News. May 28, 2020. [Labour Party challenges State of Emergency in Court Says ZIZ infringes its fundamental rights and freedom](#); ZIZ Online. May 31, 2020. [Labour Challenges State Of Emergency In Court: Sues ZIZ For Breach Of Constitutional Rights Of Labour Party And Its Candidates](#).

¹⁹¹⁶ Eastern Caribbean Supreme Court. [Marcella A. Liburd et al v The Attorney General Of Saint Christopher And Nevis et al](#). Par. 31 and 65.

expression, freedom of association, and nondiscrimination. They argued that the company continued to discriminate against the Labor Party and its supporters based on their political opinions. They state that ZIZ refused to cover the opinions and political events of the Labour Party or provide access free of charge to the media with the same terms it offered to the Government. In this regard, the Supreme Court issued a declaratory remedy recognizing that the rights of the claimants had been violated, but concluding that the State took subsequent action to redress the violations, making compensation for damages unnecessary.¹⁹¹⁷

1193. In view of these facts, the Office of the Special Rapporteur reminds the State that:

1194. **Government transparency and accountability strengthen democratic systems.** In this regard, Principle 4 of the Declaration of Principles on Freedom of Expression of the IACHR establishes that, “Access to information held by the state is a fundamental right of every individual. States have the obligation to guarantee the full exercise of this right. This principle allows only exceptional limitations that must be previously established by law in case of a real and imminent danger that threatens national security in democratic societies.”

1195. **Journalists and the media play a crucial role in the context of the pandemic.** The Office of the Special Rapporteur recalls that the IACHR Resolution on Pandemic and Human Rights in the Americas underscores the importance of access to information during the pandemic and the crucial role that journalists play by reporting on critical issues and monitoring the government's actions. States have an obligation to permit all media outlets access to official press conferences, without discrimination based on editorial stance, with the exception of necessary and proportionate measures to protect health.¹⁹¹⁸

1196. **The establishment of criminal offenses for punishing the dissemination of disinformation or fake news could have a strong chilling effect on the dissemination of ideas, criticism, and information.** This is because the establishment of criminal offenses could roll the region back to a time of criminalizing expression regarding officials or matters of public interest and establishing a tool with a significant chilling effect on the dissemination of ideas, criticism, and information. Resolution 1/20 adopted by the IACHR underscores that any subsequent liability for the dissemination of information or opinions, based on the protection of public health interests must be established in law, in a way proportionate to the compelling interest behind it, and that it is strictly geared to the achievement of that legitimate objective.¹⁹¹⁹

¹⁹¹⁷ Eastern Caribbean Supreme Court. [Marcella A. Liburd et al v The Attorney General Of Saint Christopher And Nevis et al](#). Par. 107 and 108.

¹⁹¹⁸ IACHR. Resolution No. 1/20. [Pandemic and Human Rights in the Americas](#). April 10, 2020.

¹⁹¹⁹ IACHR. Resolution No. 1/20. [Pandemic and Human Rights in the Americas](#). April 10, 2020. Par. 33 - 34; IACHR. Special Rapporteurship for Freedom of Expression. March 19, 2020. Press Release R58/20. [COVID-19: Governments must promote and protect access to and free flow of information during pandemic – International experts](#).

SAINT VINCENT AND THE GRENADINES

1197. The Office of the Special Rapporteur observes that the media environment in St. Vincent and the Grenadines is heavily influenced by political interests. According to Reporters without Borders, this tends to be the case in the Organization of East Caribbean States (OECS), where in some cases, the political parties even own or hold significant stakes in media outlets, compromising their journalistic independence. This Office has documented the use of criminal defamation—expanded to the digital space in 2016 through the Cybercrime Act—against those who make statements against the government or powerful public figures. In this regard, the Office of the Special Rapporteur is concerned that the increasing control and monitoring of this type of content on social media may lead to self-censorship.

A. Access to public information

1198. The Office of the Special Rapporteur observes that almost 17 years since the sanctioning of the Freedom of Information Act, it has yet to take effect. Toward the end of 2019, during a meeting of Parliament, opposition MP Daniel Cummings asked Prime Minister Ralph Gonsalves to explain the situation. The prime minister said there are two acts that are “inextricably bound together,” the Freedom of Information Act and the Privacy Act, which were both passed roughly the same time in 2003 and neither of them has been put into effect. He said the reason was that shortly after the passage of the act, he was informed of an attempt to coordinate similar legislation across the region, the Organization of Eastern Caribbean States (OECS), and the Caribbean Community (CARICOM), and that there were changes that would be required to these existing laws. “That is the reason why — that they have not been proclaimed. The government is still interested and I, personally, am still interested in both of those bills.¹⁹²⁰ The media have also urged the government of Ralph Gonsalves, who was reelected prime minister in 2020, that—in addition to what the legislation establishes—those in government accept as a habit the provision of unfettered and unbridled information on matters of state.¹⁹²¹

B. Subsequent liability

1199. The media and journalism organizations indicate that one of the main challenges currently facing St. Vincent is that they operate in a climate of criminal defamation (libel) laws. In this regard, they indicate that such laws are a “legacy of colonialism” that successive administrations across the region have found it fit not to touch, and whose continuing entrenchment has become a hindrance and a constraint on freedom of expression used frequently against the media.¹⁹²² The 2016 Cybercrime Act broadened the definition and

¹⁹²⁰ iWitness News. December 2, 2020. [After 16 years, SVG's freedom of info law yet to come into effect.](#)

¹⁹²¹ The Vincentian. November 6, 2020. [We Will Demand Accountability.](#)

¹⁹²² The Vincentian. (n.d.). [Decriminalising Defamation Laws.](#)

scope of defamation to include online publication. Violations can carry a fine of as much as EC\$500,000 (US\$185,000) and up to seven years imprisonment.¹⁹²³

1200. According to information received by this Office, Kengson King, a prison officer, was detained on May 22, 2020, held for more than 36 hours, and then released without charges after a post on his Facebook account that supposedly caused “fear and alarm to the public,” in violation of the 2016 Cybercrimes Act.¹⁹²⁴ In his post, Kengson King commented on a domestic dispute involving one of his uncles and denounced alleged interference in police procedures for granting licenses to carry firearms, alleging the participation of the Prime Minister in the incidents. *The Vincentian* reported on the case and quoted King, who said the Prime Minister had the clout to call the station and tell the police to give back the guns that had been confiscated. The news item also described irregularities in Kengson King’s detention, indicating that “someone can only be arrested on the basis of probable cause of having committed an offense. We know of no crime Kenson King has committed and he has not been charged.”¹⁹²⁵

1201. On June 15, the Prime Minister asked The Vincentian Publishing Company, which publishes *The Vincentian*, to pay no less than EC\$10,000 (equivalent to US\$3,700) to the Zero Hunger Trust Fund within two weeks.¹⁹²⁶ The managing editor and editor of the newspaper were also asked to apologize to the Prime Minister in the newspaper. The request is related to the story published by the newspaper alleging that Prime Minister Ralph Gonsalves had abused or misused his power or authority to give instructions improperly to the police to return the firearms confiscated from an individual who was threatening violence against his family members. The Prime Minister’s attorney denied the allegation, calling it “a fictitious invention” that has “caused immense damage” to the Prime Minister’s reputation and official standing. Additionally, the attorney told the newspaper that should the sum not be paid, they could be sued for a much greater amount, EC\$150,000 (equivalent to US\$55,000) plus legal costs.

1202. Likewise, according to the information available, Kengson King was also told to pay half his monthly salary to the Zero Hunger Trust Fund within two weeks or be sued for defamation. Grahame Bollers, the attorney of Prime Minister Ralph Gonsalves, also asked for a “full and unqualified apology” to the Prime Minister for his “outrageous defamation.”¹⁹²⁷

1203. According to the information available, on June 26, *The Vincentian* published its apology to the Prime Minister. They indicated they accepted that the allegation was defamatory and should not have been published. “THE VINCENTIAN (...) offers our sincere apologies to the Prime Minister, for the distress and embarrassment caused by the publication of the defamatory allegation,” they stated.¹⁹²⁸

1204. In view of the facts documented herein, this Office reminds the State of St. Vincent and the Grenadines that:

1205. **Government transparency and accountability strengthen democratic systems.** In this regard, Principle 4 of the Declaration of Principles on Freedom of Expression of the IACHR establishes that, “Access to information held by the state is a fundamental right of every individual. States have the obligation to guarantee the full exercise of this right. This principle allows only exceptional limitations that must be previously established by law in case of a real and imminent danger that threatens national security in democratic societies.”

1206. **The use of criminal mechanisms to punish speech on matters of public interest, especially speech related to public officials, is incompatible with inter-American standards.** Principle 11 of the Declaration of Principles on Freedom of Expression of the IACHR establishes: “Public officials are subject to greater scrutiny by society. Laws that penalize offensive expressions directed at public officials, generally known as ‘desacato laws,’ restrict freedom of expression and the right to information.” The IACHR and the Inter-American Court have repeatedly indicated that States have more limited scope to impose restrictions on the right to freedom of expression “whenever dealing with expressions concerning the State, matters of

¹⁹²³ Freedom House. *Freedom in the World 2020. St. Vincent and the Grenadines*. 2020.

¹⁹²⁴ Asberth News Network. May 24, 2020. [Park Hill Man Arrested and Released Without Charge](#).

¹⁹²⁵ The Vincentian. May 29, 2020. [Prison Officer to Sue](#).

¹⁹²⁶ Search Light. June 19, 2020. [Public servant to pay half month’s salary to Zero Hunger Trust Fund or face defamation suit](#).

¹⁹²⁷ Search Light. June 19, 2020. [Public servant to pay half month’s salary to Zero Hunger Trust Fund or face defamation suit](#).

¹⁹²⁸ The Vincentian. June 26, 2020. [Apology to the Prime Minister](#).

public interest, public officials in the performance of their duties, candidates for public office, private citizens involved voluntarily in public affairs, or political speech and debate.”¹⁹²⁹ In this regard, it has been held that the use of criminal law in these cases does not meet a pressing social need that would justify it; is unnecessary and disproportionate; and could be a means of indirect censorship, given its chilling effect on debate surrounding matters of public interest.¹⁹³⁰

SAINT LUCIA

1207. The relationship between the media and the current governments of the United Workers Party (UWP) and its supporters continues to be problematic in St. Lucia, according to media workers and members of the opposition. The Office of the Special Rapporteur took note of the multiple smears and threats against journalists investigating matters significantly in the public interest that involve State officials.

A. Attacks, threats, and smears against journalists and media outlets

1208. On July 19, 2020, journalist and UTV host Tresha Lionel was threatened by Stephen Dorelien, a supporter of the United Workers Party, in Pierrot, Vieux Fort, in the south of Santa Lucía.¹⁹³¹ In the video that was released to the public, Stephen Dorelien can be heard threatening to spit on the journalist and hit her with his walking stick. Prime Minister Alan Michael Chastanet told local journalists “It is certainly behavior that I would not condone,” and called on the parties president, Oswald Augustin, to investigate the matter as quickly as possible. The Prime Minister also described the parties treatment of the press as “pretty good” and said that “I try to give [journalists] as much access as possible” to information in the public interest and that “I’ve certainly not tried to curtail any of your stories.”¹⁹³²

1209. On July 21, 2020, outside the Parliament, St. Lucia Minister for Economic Development Guy Joseph lashed out at *MBC* reporter Miguel Fevrier, refusing to answer his questions.¹⁹³³ Since June, the journalist had been investigating the officials alleged participation in unpaid National Insurance Corporation (NIC) contributions on behalf of the employees at an early learning childhood center in Sarrot, which is financed by the Minister unofficially.¹⁹³⁴ When the journalist asked him if he had any connection to the childhood learning center in question, the official answered: “You’re not the media, you’re an ex-convict in my eyes,” adding that he would not answer any questions about it and that the matter “is going to be before the courts and the courts will deal with it.” According to the information available, Minister for Economic Development Guy Joseph filed a defamation claim against Miguel Fevrier and *MBC* after the station published a report titled “Schooled or Played? Staff at a school supposedly run by a minister say their NIC deductions have not been

¹⁹²⁹ IACHR. [Annual Report 1994](#). OEA/Ser. L/V/II.88. Doc. 9 rev. February 17, 1995; IACHR. Office of the Special Rapporteur for Freedom of Expression. [Annual Report 2009](#). OEA/Ser.L/V/II. Doc. 51. December 30, 2009. Par. 100; I/A Court H. R., [Case of Ivcher Bronstein v. Peru](#). Merits, Reparations and Costs. Judgment of February 6, 2001. Serie C No. 74; I/A Court H. R. [Case of Herrera Ulloa v. Costa Rica](#). Judgment of July 2, 2004. Serie C No. 107; I/A Court H. R. [Case of Ricardo Canese v. Paraguay](#). Judgment of August 31, 2004. Serie C No. 111; I/A Court H. R. [Case of Palamara Iribarne v. Chile](#). Judgment of November 22, 2005. Serie C No. 135; I/A Court H. R. [Case of Eduardo Kimel v. Argentina](#). Judgment of May 2, 2008. Serie C No. 177.

¹⁹³⁰ IACHR. [Annual Report 2015](#). [Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter V (Conclusions and Recommendations). OEA/Ser. L/V/II. Doc. 48. December 31, 2015.

¹⁹³¹ St. Lucia Times. July 22, 2020. [SLP Condemns Attack On Saint Lucia Media](#);

¹⁹³² Loop. July 22, 2020. [PM responds to altercation between UWP member and reporter](#).

¹⁹³³ Loop. July 21, 2020. [VIDEO: Guy Joseph and reporter Miguel Fevrier engage in war of words](#); The Star St. Lucia. July 21, 2020. [Guy Joseph and Miguel Fevrier clash outside Parliament: “You’re not the media, you’re an Ex-Convict in my eyes”](#); DBS TV St. Lucia. July 21, 2020. [Guy Joseph And Another Reporter In War Of Words](#).

¹⁹³⁴ *MBC Television St. Lucia / Facebook*. June 17, 2020. [Staff of pre-school allegedly run by a Minister, say NIC deductions have not been paid](#).

paid." The official's attorney described it as "criminal defamation" and asked the broadcaster to issue a retraction, which it refused to do.¹⁹³⁵

1210. In 2019, the Office of the Special Rapporteur documented similar actions by Guy Joseph. According to what this Office documented in its last annual report, the official refused to answer a question from *Choice Television* journalist Janeka Simon about a conflict in Parliament. The minister said that he would not answer the question because he did not consider the person a journalist, calling her a politician "posing at as an objective journalist."¹⁹³⁶

1211. In response to these cases, the Saint Lucia Labour Party called on the government and its surrogates to apologize for the abhorrent behavior, stating that "The verbal abuse and intimidation by this UWP government towards the press are aimed at distracting the public from the malfeasance which is rampant in this society, especially under the guise of contracts and capital works projects." In the press release, the opposition leaders indicated that in a free and democratic country, the press remains important as a watchdog on behalf of the citizens, monitoring the behaviour of government, Opposition and public institutions.¹⁹³⁷ They also recalled that elected Members of Parliament and ministers are "accountable to the people" and "ought to conform to respectable standards of comportment and discourse."¹⁹³⁸

1212. In conjunction with the aforementioned facts, the Office of the Special Rapporteur reminds the State of St. Lucia that:

1213. **Attacks, intimidation, and aggression against the media violate the right to freedom of expression in both its individual and collective dimension and cannot be tolerated in a democratic society.** The Office of the Special Rapporteur recalls that Principle 9 of the IACHR's Declaration of Principles on Freedom of Expression states: "[t]he murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the state to prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive due compensation."

1214. **Government authorities are called to maintain a discourse that favors public debate and freedom of expression.** The Office of the Special Rapporteur reiterates that public officials have a duty to ensure that their statements are not causing damage to the rights of those who contribute to the public debate through the expression and circulation of their thoughts, such as journalists, media outlets, and organizations for the defense of human rights, and must pay attention to the context in which they express themselves. According to the Inter-American Court of Human Rights, such statements from public officials may constitute an indirect restriction on the right to freedom of expression.¹⁹³⁹

¹⁹³⁵ The Star St. Lucia. August 27, 2020. [Guy Joseph and Miguel Fevrier headed to court](#); The Voice. 29 de agosto de 2020. [Minister Guy Joseph Sues Journalist Miguel Fevrier](#);

¹⁹³⁶ IACHR. [Annual Report 2019. Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). OEA/Ser.L/V/II. Doc. 5. February 24, 2020. Par. 1120.

¹⁹³⁷ St. Lucia News Online. July 22, 2020. [SLP condemns government's attack on the media](#).

¹⁹³⁸ St. Lucia News Online. August 9, 2020. [SLPYO condemns violent UWP threats against youth in media](#).

¹⁹³⁹ I/A Court H. R. *Case Ríos et al v. Venezuela. Preliminary Objections, Merits, Reparations and Costs*. Judgment of January 28, 2009. Serie C No.194. Par. 139.

SURINAME

1215. Although the Office of the Special Rapporteur notes that there is a high degree of respect for the exercise of freedom of expression in Suriname, obstacles persist with regard to access to public information. In its 2018 and 2019 reports, the Office of the Special Rapporteur noted the lack of legal mechanisms requiring accountability from officials. This Office reported the existence of a trend toward State restrictions on journalism work, as well as allegations of political actors providing erroneous information.

A. Harassment of journalists and media outlets

1216. On August 26, 2020, the newspaper *Dagblad Suriname* (DBS) published a cartoon depicting Ronnie Brunswijk, the president of the ABOP and the country's vice president, as a monkey. According to the information available, this led to an attempted boycott by the leaders of the General Party for Liberation and Development [*Algemene Bevrijdings- en Ontwikkelingspartij (ABOP)*] and *Pertjajah Luhur (PL)* against the Rapar Broadcasting Network (RBN), of which *Dagblad Suriname* is a part.¹⁹⁴⁰ The Office of the Vice President called the illustration offensive because of its racist content. However, the newspaper said the caricature was not intended to be racist or insulting, but rather an attempt to depict the proverb "proud as a monkey," in reference to the vice president's attitude towards his recent appointment. The Suriname Journalists Association [*Surinaamse Vereniging van Journalisten (SVJ)*] rejected any form of media boycott by the government from public officials, calling it unacceptable and issuing a call for de-escalation of the harassment.¹⁹⁴¹ According to the information available, the director of *Dugblad Suriname*, Faried Pierkhan, was even called to meet with the vice president after the publication of the caricature.¹⁹⁴²

B. Access to public information

1217. According to information received by the Office of the Special Rapporteur, during 2020, journalists and media encountered obstacles imposed by the government to the exercise of their work and to access to information in the public interest.

1218. Thus, for example, in December 2020, representatives of the government placed restrictions on the media's coverage of "Bigisma Dey" (old-age day), a popular event in Suriname for older persons organized by the office of the president under the auspices of the office of the first lady and that the media usually covers every year. According to the information available, the reporters from a number of media outlets were denied

¹⁹⁴⁰ *Dagblad West*. August 28, 2020. [Regering Mag Niet Zelfstandig Maatregelen Nemen Tegen Dagblad Suriname](#).

¹⁹⁴¹ DWT Online. August 29, 2020. [SVJ tegen boycot DBS door regering en overheid](#); *De Ware Tijd*. August 31, 2020. [SVJ tegen boycot DBS door regering en overheid](#).

¹⁹⁴² *Dagblad West*. August 28, 2020. [Regering Mag Niet Zelfstandig Maatregelen Nemen Tegen Dagblad Suriname](#).

access and told that only the Suriname Communications Service [*Communicatie Dienst Suriname (CDS)*] were authorized to cover the event. They were then sent a press release on the activity. Likewise, a journalist and photographer from *Ware Tijd* who had been able to get in were removed by the CDS, which told them it was a "private meeting."¹⁹⁴³ Journalist and former president of the Suriname Journalists Association Wilfred Leewin said that "the right to freedom of expression is a fundamental right. A free press is a pillar of democracy because the right to freedom of expression is exercised through the media. However, what we have seen is that governments—and not only in Suriname—want to control the news."¹⁹⁴⁴ Ricardo Carrot, a journalist and the former editor-in-chief of *Ware Tijd*, from 2007 to 2008, said the government's behavior "smells of another form of censorship of the independent and free press."¹⁹⁴⁵ Through its director, Alven Roosveld, the Suriname Communication Service apologize for what had happened and called it "a grave error," adding that "keeping the media out is not something we can defend, nor is it the policy of this government. There has been some outrage; we are going to learn from it."¹⁹⁴⁶

1219. The Suriname Journalists Society repudiated the government's conduct and indicated that not having an invitation to the activity is not a valid reason to restrict media access. "Although the government has new ideas about admitting the media to government events, it must communicate it to the media adequately beforehand," they said in a press release.¹⁹⁴⁷ According to the journalism organization, during the electoral period, the leaders of the incoming coalition said the new government would communicate transparently with the media; however, in practice, there seem to be many shortcomings in this regard. "The government must realize that no democratic society can prosper when it closes off, restricts, and/or obstructs the free press from doing its job," they said.¹⁹⁴⁸

1220. Similarly, according to the Journalists Association of Suriname, the media outlets in Nickerie District were not authorized to cover the arrival of the first lady there on December 12, 2020. Instead, only employees of the CDS and the Nickerie Citizen Information Center (*Burger Informatie Centrum van Nickerie*) were allowed access.¹⁹⁴⁹

1221. On April 15, 2020, journalists did not attend the regular daily press conferences of the National COVID-19 Management Team and government in an act of protest over the limited space provided to them for asking questions and because of the unclear or partial answers offered by officials.¹⁹⁵⁰

1222. On May 3, World Press Freedom Day, the Journalists Society of Suriname said that the work of journalists and the media was being subjected to a certain degree of pressure in the context of the election, the coronavirus health crisis, and the country's financial and economic problems.¹⁹⁵¹ Civil society organizations also noted that society was increasingly hostile toward journalists.

1223. In view of the facts set forth, the Office of the Special Rapporteur calls on the State of Suriname to take special note that:

1224. **Attacks on journalists violate the right to freedom of expression in both its individual and collective dimension and cannot be tolerated in a democratic society.** The Office of the Special Rapporteur recalls that Principle 9 of the IACHR's Declaration of Principles on Freedom of Expression states: "[t]he murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict

¹⁹⁴³ DWT Online. December 15, 2020. [De Ware Tijd exclusie de Bigisma Dey.](#)

¹⁹⁴⁴ DWT Online. December 17, 2020. [Recht op vrije meningsuiting beknod door weigering journalisten.](#)

¹⁹⁴⁵ DWT Online. December 17, 2020. [Recht op vrije meningsuiting beknod door weigering journalisten;](#) DWT Online. December 17, 2020. [SVJ bezorgd om bejeging Surinaamse pers.](#)

¹⁹⁴⁶ Star Nieuws. December 16, 2020. [CDS-directeur zegt 'sorry' tegen media over Bigi sma dey.](#)

¹⁹⁴⁷ Star Nieuws. December 17, 2020. [SVJ protesteert tegen beknodding media;](#) Waterkant. December 17, 2020. [Journalisten vereniging hekelt belemmering pers bij Bigi Sma Dey;](#) Suriname Nieuws. December 17, 2020. [Journalistenvereniging bezorgd over beknodding media;](#) Radio Magic FM. December 17, 2020. [Journalistenvereniging bezorgd over beknodding media.](#)

¹⁹⁴⁸ Star Nieuws. December 17, 2020. [SVJ protesteert tegen beknodding media;](#) Dagblad Suriname. December 17, 2020. [SVJ: Argumenten en redenen coördinator CDS niet steek houdend en onacceptabel.](#)

¹⁹⁴⁹ Waterkant. December 17, 2020. [Journalisten vereniging hekelt belemmering pers bij Bigi Sma Dey.](#)

¹⁹⁵⁰ Star Nieuws. April 15, 2020. [Journalisten weggebleven van Covid-19 persconferentie;](#) Dagblad West. April 16, 2020. [Journalisten ontevreden over Covid-19 persconferenties.](#)

¹⁹⁵¹ DWT Online. May 3, 2020. [SVJ: 'Persvrijheid in zekere mate onder druk';](#) Suriname Herald. May 3, 2020. [SVJ roept journalisten op onbevreesd hun werk te doen;](#) Star Nieuws. May 3, 2020. [SVJ: Journalistiek in zekere mate onder druk komen te staan.](#)

freedom of expression. It is the duty of the state to prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive due compensation.”

1225. **Government transparency and accountability strengthen democratic systems.** In this regard, Principle 4 of the Declaration of Principles on Freedom of Expression of the IACHR establishes that, “Access to information held by the state is a fundamental right of every individual. States have the obligation to guarantee the full exercise of this right. This principle allows only exceptional limitations that must be previously established by law in case of a real and imminent danger that threatens national security in democratic societies.” Likewise, the Office of the Special Rapporteur recalls that the IACHR Resolution on Pandemic and Human Rights underscores the importance of access to information in the current context caused by COVID-19 and the crucial role that journalists play by reporting on critical issues and monitoring the government’s actions. States have an obligation to permit all media outlets access to official press conferences, without discrimination based on editorial stance, with the exception of necessary and proportionate measures to protect health.¹⁹⁵²

TRINIDAD AND TOBAGO

1226. During 2020, the Office of the Special Rapporteur for Freedom of Expression took note of a number of incidents of attacks, aggression, and intimidation against journalists and media outlets due to their COVID-19 coverage or investigations into matters involving government officials. The Office was also informed of the alleged statements of the Prime Minister and other public officials accusing the media of not being independent and of deceiving the public. This Office is especially concerned at the move by the Trinidad and Tobago Police Service to search the offices of the *Trinidad Express*.

A. Attacks, threats, and intimidation aimed at journalists and media.

1227. On March 11, seven members of the Trinidad and Tobago Police Service searched the offices of the *Trinidad Express* for three hours, confiscating a number of electronic devices.¹⁹⁵³ The officers arrived at the offices with a court order and proceeded to search the offices of the editor-in-chief, Omatie Lyder, who was not present at the time. According to the information available, the officers were looking for information on a source that the newspaper had supposedly used for an article published in the Sunday edition—*Sunday Express*—that reported that acting police commissioner Irwin Hackshaw had been implicated by local banks that flagged transactions worth close to TT\$2 million. According to publicly available information, the same police officer who was being investigated by the newspaper had supervised the officers during the search.

1228. The Police said they had acted in accordance with the terms of Section 2 of the Financial Intelligence Unit (FIUTT) Offences and Penalties Act, titled “Tipping Off,” which gives the police the authority to investigate whistleblowers. For their part, both Minister of National Security Stuart Young and Police Commissioner Gary Griffith denied having any prior knowledge of the facts.

1229. That same evening, the newspaper asked High Court Judge Kevin Ramcharan for a court order to prevent new searches, which was granted the next day. Editor-in-chief Omatie Lyder said that under no circumstances would he reveal his source, as sources were a central part of his work and he would protect them “with all our journalistic integrity.”¹⁹⁵⁴ The Media Association of Trinidad and Tobago (MATT) issued a press release rejecting the incident, calling it “a frontal attack on the Constitution of the Republic of Trinidad and Tobago that guarantees free speech and press freedom.”¹⁹⁵⁵ The Trinidad and Tobago Publishers and

¹⁹⁵² IACHR. Resolution No. 1/20. [Pandemic and Human Rights in the Americas](#). April 10, 2020.

¹⁹⁵³ CNC 3. March 11, 2020. [Police search offices of Trinidad Express Newspaper](#); Trinidad Express. March 12, 2020. [Court orders cops: Express House off limits](#); Stabroek News. March 12, 2020. [Police raid the office of Trinidad Express’ Editor](#); Trinidad & Tobago Guardian. March 12, 2020. [Hackshaw orders Express search](#).

¹⁹⁵⁴ Daily Express. March 12, 2020. [Attack on press freedom](#); Public Media Alliance. March 17, 2020. [PMA condemns police search of the Trinidad Express](#);

¹⁹⁵⁵ Media Association of Trinidad and Tobago. [March 12, 2020](#).

Broadcasters Association (TTPBA) also called attention to what happened and said it was an act of intimidation that eroded freedom of the press.¹⁹⁵⁶ For its part, the Inter-American Press Association said “the action by the Trinidad and Tobago Police Service is nothing short of intimidation and must be condemned as a serious threat to the freedom of the press.”¹⁹⁵⁷

1230. One Caribbean Media Group Ltd (OCM), its newspaper the *Trinidad Express*, and Editor-in-chief Omatie Lyder brought legal action against the Office of the Attorney General, the Commissioner of Police and Supt. Wendell Lucas of the Financial Investigations Bureau (FIB), challenging the constitutionality of the search of the newspaper’s newsroom.¹⁹⁵⁸ They alleged that the order issued by the justice of the peace was unconstitutional, illegal, arbitrary, unnecessary, and disproportionate, violating the right to freedom of expression guaranteed in the Constitution. They underscored that the police have parameters when seeking a court order that could violate a constitutional right. For their part, the police’s defense, led by attorney Fyard Hosein, argued that the search warrant was obtained to determine who was leaking to the media, and the logical place to obtain that information was at the offices. He also argued that the newspaper was part of the *actus reus* in the case, as the individual who leaked the information provided it to the newspaper.

1231. The Office of the Special Rapporteur welcomes the ruling issued on January 13, 2021 by Supreme Court Justice Frank Seepersad, who held that the two search warrants obtained by the police for the *Trinidad Express* newspaper in search of information which could lead them to a journalist’s source were “plainly irregular,” unlawful, and unconstitutional as they disproportionately infringed on the media outlet’s right to freedom of the press.¹⁹⁵⁹ The ruling found that the decision to search the newspaper needed “an informed and measured determination as to whether the public interest in identifying and prosecuting the journalist’s source was of greater importance than the public’s right to know that a serious investigation was looming over the head of a very senior police officer,” an analysis that, according to Justice Seepersad, that Police did not provide. The Media Association of Trinidad and Tobago called the ruling “a win for the public interest, a win for every journalist in the country and every media house, a win for whistleblowers and a big win for democracy.”¹⁹⁶⁰

1232. This Office received with concern information about the threats received by *Newsday* journalist Darren Bahaw after he worked on an investigation into the alleged participation of the police in a shooting incident that ended with the death of three young people on June 27 in the community of Morvant. The website reported that measures were taken for the journalist’s security and that reports were filed on the attempts to deter him from publishing the story with the Commissioner of Police, the Police Complaints Authority, and the Director of Public Prosecutions. Official investigations are under way.¹⁹⁶¹

1233. The Office of the Special Rapporteur also received information on alleged attacks on journalists covering stories related to COVID-19. For example, on March 24, a reporter for *TV6 South*, Cindy Raghubar-Teekersingh, and other colleagues from State TV station *Trinidad and Tobago Television*, from the *Trinidad Express*, and from *CNC3* were physically and verbally assaulted by security guards at that San Fernando General Hospital.¹⁹⁶² The journalists were in the parking lot doing video shoots when the guards approached them and told them that they could not stay there. The journalist responded that yes she could, and that even though the hospital’s parking lot was a public space, she had informed the South West Regional Health Authority’s (SWRHA) Corporate Communications Department. Despite the threat, the journalists continue to do their work, in response to which the guards once again berated them and threatened them more

¹⁹⁵⁶ Daily Express. March 12, 2020. [‘Attack on press freedom’](#).

¹⁹⁵⁷ Inter-American Press Association (IAPA). March 12, 2020. [IAPA strongly condemns police raid against newspaper in Trinidad and Tobago](#).

¹⁹⁵⁸ Daily Express. August 30, 2020. [Cops raid Express House: MATT joins in on lawsuit](#); The World News. September 3, 2020. [Court clears MATT to join the hering - Trinidad & Tobago Express Newspapers](#).

¹⁹⁵⁹ The Gleaner. January 14, 2021. [Judge Rules Raid On Media House In Trinidad Unconstitutional](#); Barbados Today. January 13, 2021. [Regional: Judge rules raid on media unconstitutional](#). Trinidad & Tobago Guardian. January 14, 2021. [Judge rules raids on Express unlawful](#).

¹⁹⁶⁰ Newsday. January 13, 2021. [MATT: Court ruling on Express raid a big win for democracy](#).

¹⁹⁶¹ Newsday. July 9, 2020. [Newsday journalist threatened](#); The Chartered Institute of Journalists. July 10, 2020. [Newsday’s Assistant Sunday editor Darren Bahaw has suffered attempts to intimidate him after writing about police involvement in a fatal shooting in Trinidad and Tobago](#); Media Association of Trinidad & Tobago / Facebook. [July 18, 2020](#); Newsday. July 19, 2020. [MATT wants swift probe of threats against Newsday journalist](#).

¹⁹⁶² Trinidad & Tobago Guardian. March 25, 2020. [Media personnel attacked while covering COVID story](#); Loop. March 25, 2020. [MATT slams assault on media workers at SFGH](#); Twitter Account of CCN TV6 (@tv6tnt). [March 25, 2020](#).

aggressively, pushing them and causing a struggle. According to the information available, damage was caused to the equipment. The officials of the South West Regional Health Authority who arrived after the facts said the communicators had a permit to be in that part of the complex. The entity then issued a statement indicating that an investigation had been launched to find out what led to the incident and take the measures necessary.

1234. The Media Association of Trinidad and Tobago urged security staff to respect the right of journalists to do their work and inform society.¹⁹⁶³ Likewise, Reporters without Borders called on the authorities to allow journalists in Trinidad and Tobago to report on and investigate matters related to the coronavirus without fear of attacks or interference, underscoring that journalism work is more important than ever.¹⁹⁶⁴

B. Stigmatizing statements

1235. On May 27, the Prime Minister accused the media of not being independent, answering only to private interests and “harassing people with lies.”¹⁹⁶⁵ During a press conference, the Prime Minister said his interest was “to protect the interest of the people of Trinidad and Tobago,” while the interest of the media was “to protect their financial bottom line,” and that negative coverage of his administration was a response to government pressure on those private interests. The Prime Minister accused the media of speculation and “misrepresentation” of facts, and of publishing falsehoods on, among other issues, meetings of senior officials, National Security Minister Stuart Young, Venezuelan Vice President Delcy Rodríguez and Asdrúbal Chávez, who was appointed head of Venezuelan oil company Petróleos de Venezuela S.A. (PDVSA). He said this was reproachful, as citizens should not take positions based on “fictions and falsehoods.” Throughout his comments, the Prime Minister singled out the *Trinidad and Tobago Guardian* and *Trinidad Express*, attacking their reporting.

1236. In response to the Prime Minister’s statements, the president of the Media Association of Trinidad and Tobago said “Journalists will persist in their questioning on behalf of the public, on this and other matters, no matter how inconvenient,” as that is their role in a democratic society.¹⁹⁶⁶ “We will not be censored or forced into self-censorship. Journalists will continue to hold power to account and to pursue transparency on behalf of the public,” she added. For its part, the Association of Caribbean Media Workers underscored that “by definition, independent media are entitled, if not expected, to hold independent views on things, including matters of self-interest.” For the Inter-American Press Association (IAPA), the Prime Minister’s comments “appear to be intended to broadly undermine media in a public forum,” and his “hostile attitude appears to be a retaliation for critical publications about his government and the posing of uncomfortable questions about matters of public interest.”

1237. Among other concerning facts, in August, Security Minister Stuart Young accused the *Trinidad Express* of deliberately misleading the public with an article it had published on alleged multimillion dollar transactions in which his father, Richard Young, had acted as a broker.¹⁹⁶⁷ The report also said that, according to documents that the newspaper was able to access through a public information request, between 2015 and 2020, Minister Stuart Young had recused himself 57 times in the Cabinet on matters involving the financial institution NCB Global Finance, whose CEO is his brother, Angus Young. The official expressed annoyance at the article, which he described as misleading, inaccurate, and an attempt to smear the good name of his family, saying he was part of a media strategy to publish the article days before the general elections to influence voters. He also said that his father never acted as a broker in Cabinet transactions. “This dishonesty of the *Express* is astounding and I have advised my father to seek legal redress,” he said.¹⁹⁶⁸

C. Access to public information

¹⁹⁶³ Media Association of Trinidad & Tobago. [March 25, 2020](#).

¹⁹⁶⁴ Reporters Without Borders. [March 27, 2020](#).

¹⁹⁶⁵ Trinidad & Tobago Guardian. May 28, 2020. [PM accuses media of biased reporting](#); Loop. May 28, 2020. [‘Not hiding’: PM speaks on Rio Treaty, says media protecting interests](#); Daily Express. May 28, 2020. [PM lashes out at media](#).

¹⁹⁶⁶ Newsday. May 28, 2020. [Journalists respond to Rowley](#).

¹⁹⁶⁷ Newsday. August 2, 2020. [Young advises dad to sue newspaper](#); Trinidad & Tobago Guardian. August 2, 2020. [Stuart threatens to sue Kamla, daily newspaper](#); Loop. August 2, 2020. [UNC: Young, family personally benefited from Gov’t contracts](#); The 99%. August 2, 2020. [Stuart Young to file defamation suit against Opposition Leader, Express](#).

¹⁹⁶⁸ Newsday. August 2, 2020. [Young advises dad to sue newspaper](#).

1238. During 2020, and especially because of the pandemic, media workers have encountered obstacles to the exercise of their profession. For example, they said the accreditation standards for government press conferences were not clear, and several journalists had to wait a long time before being selected to ask a question. Among other complaints, the Media Association of Trinidad and Tobago indicated that the congestion of questions, persons, and information at the virtual news briefings diminish the capacity to address not only issues related to COVID-19 but also other government matters, including energy, trade, agriculture and fisheries, works, women and children, public utilities.¹⁹⁶⁹

D. Subsequent liability

1239. In 2019, this Office observed that the debate surrounding the Sedition Act, which criminalizes any individual or publication for committing "seditious acts" or for communicating with "seditious intent" had renewed.

1240. In January 2020, High Court Judge Frank Seepersad ruled that sections 3 and 4 of the legislation, which was passed in 1920, were unconstitutional.¹⁹⁷⁰ In his ruling, he emphasized that the legislation was vague, uncertain, and could lead to arbitrary application, and was not compatible with a sovereign democratic state as it limited constitutional rights to freedom of thought and expression and freedom of the press. As this Office indicated in its previous annual report, the Constitutional challenge was filed by SDMS Central Broadcasting Services Ltd—the holding company of *Radio and TV Jaagriti*—and Satnarayan Maharaj, the radio stations general manager, after the Police came in April 2019 to the media outlet's offices with a search warrant on suspicion of a possible act of sedition.¹⁹⁷¹ Among the results of this court ruling, the charges of sedition against the president of the Public Services Association, Watson Duke, were suspended.¹⁹⁷²

1241. The Office of the Special Rapporteur observes with concern that despite the progress represented by the High Court's decision, the ruling was immediately appealed by the Office of the Attorney General, and in February, Appeal Court Judge Justice Alice Yorke-Soo Hon suspended Justice Seepersad's order, putting the sedition law back in effect.¹⁹⁷³ According to Attorney General Faris Al-Rawi, the ruling finding multiple parts of the law unconstitutional was "dangerous," and he said he would appeal it to the highest courts.¹⁹⁷⁴

1242. Based on the facts observed by the Office of the Special Rapporteur during 2020 and Trinidad and Tobago, the Office of the Special Rapporteur deems it particularly important to recall that:

1243. **Attacks, intimidation, and aggression against the media violate the right to freedom of expression in both its individual and collective dimension and cannot be tolerated in a democratic society.** The Office of the Special Rapporteur recalls that Principle 9 of the IACHR's Declaration of Principles on Freedom of Expression states: "[t]he murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the state to prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive due compensation." This Office reiterates the important role that the media play in democracy, especially active investigative journalism. Consequently, journalists who investigate cases of corruption or improper actions by public officials must not be the target of judicial or any other type of harassment in retaliation for their work. As indicated in the 2012 Joint Declaration on Crimes against Freedom of Expression, "[w]hen a crime against freedom of expression takes place, States should launch an independent, speedy and effective investigation, with a view to bringing to trial, before impartial and independent tribunals, both perpetrators and instigators of these crimes. The investigation should be carried out by a body that is independent from those implicated

¹⁹⁶⁹ Media Association of Trinidad & Tobago / Facebook. [April 15, 2020](#).

¹⁹⁷⁰ Trinidad & Tobago Guardia. January 14, 2020. [High Court judge rules parts of sedition law unconstitutional](#); Daily Express. January 13, 2020. [Sedition Act struck down: Sat vindicated: Duke's case halted](#); Daily Express. January 15, 2020. [The sedition ruling](#).

¹⁹⁷¹ IACHR. [Annual Report 2019. Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). OEA/Ser.L/V/II. Doc. 5. February 24, 2020. Par. 1129.

¹⁹⁷² Newsday. January 28, 2020. [Duke happy sedition charges dismissed](#); Daily Express. January 27, 2020. [Sedition charge against Duke dismissed](#).

¹⁹⁷³ Daily Express. January 17, 2020. [Sedition laws back in effect, as Appeal Court suspends Seepersad's ruling](#); Newsday. January 17, 2020. [Appeal Court suspends ruling on sedition law](#).

¹⁹⁷⁴ Loop. January 13, 2020. [AG: Gov't to appeal High Court ruling on Sedition Act](#); Newsday. January 14, 2020. [AG: We'll appeal 'dangerous' ruling on Sedition Act](#).

in the events. This implies both formal hierarchical and institutional independence, and practical arrangements to secure independence.”¹⁹⁷⁵

1244. **The protection of journalists’ sources is a principle that is part of the right to freedom of expression.** Its importance rest in the fact that, without this protection, it would be difficult for certain information to reach the public. Principle 8 of the Declaration of Principles on Freedom of Expression of the IACHR establishes that, “Every social communicator has the right to keep his/her source of information, notes, personal and professional archives confidential.” Also, Article 13(3) of the American Convention establishes: “The right of expression may not be restricted by indirect methods or means, such as the abuse of government or private controls over newsprint, radio broadcasting frequencies, or equipment used in the dissemination of information, or by any other means tending to impede the communication and circulation of ideas and opinions.”

1245. **Government authorities are called to maintain a discourse that favors public debate and freedom of expression.** The Office of the Special Rapporteur reiterates that public officials have a duty to ensure that their statements are not causing damage to the rights of those who contribute to the public debate through the expression and circulation of their thoughts, such as journalists, media outlets, and organizations for the defense of human rights, and must pay attention to the context in which they express themselves. According to the Inter-American Court of Human Rights, such statements from public officials may constitute an indirect restriction on the right to freedom of expression.¹⁹⁷⁶

1246. **Government transparency and accountability strengthen democratic systems.** In this regard, Principle 4 of the Declaration of Principles on Freedom of Expression of the IACHR establishes that, “Access to information held by the state is a fundamental right of every individual. States have the obligation to guarantee the full exercise of this right. This principle allows only exceptional limitations that must be previously established by law in case of a real and imminent danger that threatens national security in democratic societies.” Likewise, the Office of the Special Rapporteur recalls that the IACHR Resolution on Pandemic and Human Rights in the Americas underscores the importance of access to information in the current context caused by COVID-19 and the crucial role that journalists play by reporting on critical issues and monitoring the government's actions. In this regard, the IACHR has also underscored that “States should not include communicators in restrictions on movement of people, and are obliged to allow all access to official press conferences, without discrimination based on editorial stance, with the exception of necessary and proportionate measures to protect health.”¹⁹⁷⁷

1247. **The use of criminal mechanisms to punish speech on matters of public interest, especially speech related to public officials, is incompatible with inter-American standards.** Principle 11 of the Declaration of Principles on Freedom of Expression of the IACHR establishes: “Public officials are subject to greater scrutiny by society. Laws that penalize offensive expressions directed at public officials, generally known as ‘*desacato* laws,’ restrict freedom of expression and the right to information.” Likewise, the IACHR has held that the use of criminal law in these cases does not meet a pressing social need that would justify it; is unnecessary and disproportionate; and could be a means of indirect censorship, given its chilling effect on debate surrounding matters of public interest.¹⁹⁷⁸ In the “Tenth Anniversary Joint Declaration: Ten key challenges to freedom of expression in the next decade,” of 2010, the Special Rapporteurs of the UN, IACHR, OSCE, and ACHPR stated that “[t]he retention of antiquated legal rules – such as sedition laws or rules against

¹⁹⁷⁵ The United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples’ Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information. June 25, 2012. [Joint Declaration on Crimes Against Freedom of Expression](#).

¹⁹⁷⁶ I/A Court H. R. *Case Ríos et al v. Venezuela. Preliminary Objections, Merits, Reparations and Costs*. Judgment of January 28, 2009. Serie C No.194. Par. 139.

¹⁹⁷⁷ IACHR. Resolution No. 1/20. [Pandemic and Human Rights in the Americas](#). April 10, 2020. Par. 29, 32; IACHR. Special Rapporteurship for Freedom of Expression. March 19, 2020. Press Release R58/20. [COVID-19: Governments must promote and protect access to and free flow of information during pandemic – International experts](#).

¹⁹⁷⁸ IACHR. [Annual Report 2015. Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter V (Conclusions and Recommendations). OEA/Ser. L/V/II. Doc. 48. December 31, 2015.

publishing false news – which penalise criticism of government” constitute illegitimate “mechanisms of government control over the media.”¹⁹⁷⁹

URUGUAY

1248. The Office of the Special Rapporteur took note of the provisions of the Urgent Consideration Law, promoted by the Government in the first months of the year, which involves restrictions on fundamental rights related to freedom of expression, the rights of assembly and association (public demonstrations and peaceful protest) and the right of access to information on intelligence, national security, and defense matters. In this framework, and in accordance with the powers established in Article 41 of the American Convention on Human Rights, the Office of the Special Rapporteur sent a letter to the State of Uruguay requesting information on the provisions of the norm, at that time subject to legislative discussion.

1249. Likewise, the Office of the Special Rapporteur observed with particular concern a context of massive dismissals of journalists, both in public and private media, as a result of the economic crisis generated by COVID-19. On the other hand, this Office welcomes the fact that the Unit for Access to Public Information, the body that guarantees the right of access to information in Uruguay, has promoted consultation by virtual means in the context of the pandemic.

A. Legal reforms

1250. The Office of the Special Rapporteur gave special follow-up to the Urgent Consideration Law (LUC) presented on April 23, 2020 by the new president Luis Lacalle Pou and the parliamentarians of his National Party, and finally approved by the Senate on July 8, 2020.¹⁹⁸⁰ The new norm modifies the Criminal Code and establishes a penalty of three to eighteen months in prison for anyone who “offends”, “undermines”, “threatens” or “insults” the police authority in the exercise of their functions or for any of these reasons (art. 11). On the other hand, it declares illegitimate “strikes that impede the free movement of people, goods or services, in public or private spaces for public use” (art. 468) and empowers the police to use force when “they must dissolve meetings or demonstrations that seriously disturb public order, or that are not peaceful, insofar as they involve people who carry their own or improper weapons or who show violent behavior” (art. 45 F). Regarding public information, the law provides that certain information in the possession of the State will be of a reserved nature, of restricted and secret circulation, and limits the possibilities of requesting the declassification of the information produced by certain State agencies, as well as the guarantee of access to justice in these cases (arts. 125 and 126).

¹⁹⁷⁹ The United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples’ Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information. February 3, 2010. [Tenth Anniversary Joint Declaration: Ten key challenges to freedom of expression in the next decade.](#)

¹⁹⁸⁰ República Oriental del Uruguay, Poder Legislativo. [Ley Nº 19.889. Ley de Urgente Consideración.](#) July 8, 2020; Infobae. July 8, 2020. [El Congreso uruguayo aprobó la Ley de Urgente Consideración, clave para el gobierno de Lacalle Pou;](#) El País Uruguay. July 9, 2020. [Nace la ley de urgente consideración: los 10 puntos clave del proyecto de Lacalle Pou;](#) Clarín. July 9, 2020. [Uruguay: el Parlamento aprueba la ley de Urgente Consideración, buque insignia del Lacalle Pou.](#)

1251. According to public information, on July 24 the law came into force and at the judicial level some of its precepts began to be applied, although there are still doubts among law enforcement.¹⁹⁸¹ The legislative process by which the LUC was approved is the urgent consideration procedure provided by Article 168.7 of the Uruguayan Constitution. This is an exceptional procedure in which Parliament has very short deadlines for the study of the bill and when these expire the initiative is considered approved.

1252. The IACHR's Office of the Special Rapporteur for Freedom of Expression, experts from the United Nations, the Committee to Protect Journalists, and local human rights organizations such as the Center for Archives and Access to Public Information (CAinfo) and Observacom expressed concern about the initiative.¹⁹⁸² Likewise, before the bill was approved, the Office of the Special Rapporteur for Freedom of Expression sent a letter to the State in accordance with the powers established in Article 41 of the American Convention on Human Rights, in order to request information on the provisions of the LUC that could affect the guarantees for the exercise of freedom of expression as well as formulate some recommendations in light of the standards emanating from the American Convention. On that occasion, the Office of the Special Rapporteur pointed out that although the initiative contains a series of provisions aimed at protecting legitimate interests, its wording involves restrictions on fundamental rights related to freedom of expression, the rights of assembly and association, and the right of access to the information on intelligence, national security, and defense matters. Likewise, the provisions could affect the right to social and political participation.¹⁹⁸³

1253. On the other hand, different actors questioned the not very transparent legislative process that was followed, and the “constitutional weaknesses” that surround it, as it has remained urgent despite the emergence of COVID-19 and given the shallowness of the debate.¹⁹⁸⁴

1254. In August 2020, different social organizations and unions from various sectors demonstrated in favor of holding a referendum to repeal the LUC.¹⁹⁸⁵ On December 14, 2020, at the headquarters of the Inter-Union Plenary of Workers-National Workers Convention (PIT-CNT), and with the participation of organizations and unions linked to workers, university students, and feminist movements, they announced the launch of a Pro Referendum commission that seeks to repeal 133 articles of the LUC.¹⁹⁸⁶ According to the information available, the objective of this commission would be to reach the signatures of 25% of the electorate before July 2021, as required by the regulations, and then promote a referendum in which it will be decided to repeal the LUC or not.

1255. Likewise, the Office of the Special Rapporteur learned that on April 24, 2020, the Executive Branch presented the draft Law on Audiovisual Content Diffusion Services that would modify the current Media Law, approved in 2014.¹⁹⁸⁷ In the framework of the debates held in the Industry Commission of the Chamber of

¹⁹⁸¹ Global Voices. December 9, 2020. [Nuevo gobierno en Uruguay prioriza la seguridad. ¿a costa de la libertad de expresión?](#); El Observador. August 3, 2020. [Justicia empezó a aplicar la LUC pero hay debate entre los operadores.](#)

¹⁹⁸² Committee to Protect Journalists (CPJ). February 6, 2020. [Uruguay's incoming government must consider press freedom in draft 'urgency law'](#); Observacom. February 14, 2020. [Edison Lanza expresó preocupación por el proyecto de Ley de Urgente Consideración del nuevo gobierno de Uruguay](#); IFEX. January 31, 2020. [CAinfo y Observacom expresan su preocupación por disposiciones en proyecto de Ley de Urgente Consideración](#); CAinfo. May 8, 2020. [CAinfo presentó informe sobre proyecto de ley de urgente consideración](#); La Diaria. May 8, 2020. [CAinfo advierte por restricción a la protesta pacífica y a la libertad de expresión en artículos de la LUC](#); Committee to Protect Journalists (CPJ). May 14, 2020. [Legislation proposed by new Uruguayan president criminalizes insulting police](#); La Diaria. May 23, 2020. [LUC restringe "derechos humanos fundamentales", según relator para la libertad de expresión](#); La Diaria. June 5, 2020. [Udelar: cambios de la LUC en seguridad son "regresivos" y "erosionan las garantías propias de un Estado de derecho"](#); El País. June 12, 2020. [Críticas de Naciones Unidas a la ley de urgente consideración encienden el debate.](#)

¹⁹⁸³ Twitter account of Edison Lanza (@EdisonLanza). [June 10, 2020.](#)

¹⁹⁸⁴ 180 Uruguay. April 18, 2020. [Constitucionalidad, el primer debate de la LUC](#); El País. April 18, 2020. [Fracasó moción que presentó el FA en el Senado para retirar rótulo de urgente consideración a la LUC](#); Montevideo Portal. April 29, 2020. [Andrade consideró que la LUC tiene "una enorme debilidad" constitucional.](#)

¹⁹⁸⁵ La Diaria. July 29, 2020. [PIT-CNT se moviliza este jueves contra la LUC y evalúa impulsar referéndum](#); Subrayado. July 30, 2020. [PIT-CNT evalúa impulsar un referéndum contra la LUC](#); Telesur. August 13, 2020. [Proponen referendo derogatorio de LUC en Uruguay.](#)

¹⁹⁸⁶ El País Uruguay. December 14, 2020. [Se lanzó comisión Pro Referéndum contra la Ley de Urgente Consideración](#); La Diaria. December 14, 2020. [Comisión Nacional Pro Referéndum dio a conocer los 133 artículos de la LUC contra los que presentará el recurso.](#)

¹⁹⁸⁷ Notas Periodismo Popular. April 20, 2020. [El gobierno de Uruguay busca sustituir la ley de medios](#); Nodal. April 28, 2020. [Una norma a medida de los dueños: Lacalle Pou presenta proyecto que sustituye a la ley de medios](#); Observacom. May 6, 2020. [Hoy comienza a tratarse en la Cámara de Diputados el proyecto del oficialismo para modificar la Ley de Medios en Uruguay](#); Página 12. August 19, 2020. [Lacalle Pou avanza contra la Ley de Medios del Frente Amplio.](#)

Deputies, civil society organizations warned that, if approved, the bill would sharpen media concentration and affect news pluralism.

1256. According to Observacom, who participated in the session of October 7, 2020, the initiative presented by President Luis Lacalle Pou “promotes more concentration, less pluralism, and curtails freedom of expression through different mechanisms such as tripling the amount of media that the same person or company can currently accumulate by going from 3 to 8 licenses, exempt from the accumulation limits those who have less than 30% of share capital in each medium; repeal all anti-concentration provisions on pay TV; promote the foreign ownership of pay TV companies; eliminate the prohibition of cross ownership between TV and Internet access, freeze, and eternalize the ownership of the current owners and block any entry of new operators, among other aspects”.¹⁹⁸⁸ Likewise, in a position paper, the Coalition for Democratic Communication (CCD) pointed out that “key elements are lost in terms of the independence of the enforcement agencies with respect to political, economic, and media power, transparency and citizen participation in the processes of assignment and renewal of frequencies and exercise of citizen rights. We return to a situation that the country experienced previously, in which the allocation of radio and television frequencies was an exclusive decision of the Executive Power, without the participation or control of independent organizations or citizens, and without taking into account communicational criteria. Instances provided for the exercise, defense and promotion of the rights of citizens in matters of information and communication disappear”. According to the CCD, it undermines citizen participation and transparency by eliminating the Honorary Advisory Commission for Audiovisual Communication Services (CHASCA) and eliminating holding public hearings to assign frequencies. In addition, the document emphasizes that “the proposed changes in anti-concentration regulation imply a huge setback in terms of pluralism and diversity of media in Uruguay, expressly violating inter-American recommendations and standards on freedom of expression”.¹⁹⁸⁹

1257. According to various media outlets, although government authorities intended for the project to be dealt with by Congress representatives before the end of 2020, this was not achieved and was postponed to 2021. According to the information available, one of the reasons why for postponing the vote in the Chamber of Representatives' Committee on Industry, Energy, and Mining, is that it was not possible to receive all the delegations presented by the political opposition and they understood that it was appropriate that all interested voices can be expressed in this matter.¹⁹⁹⁰

1258. The Office of the Special Rapporteur received with concern the information on a provision of the Budget Law 2020-2024 proposed by the Executive Power and approved by Congress in December, which could enable the blocking and taking down audiovisual content on the internet without a court order.¹⁹⁹¹ Specifically, article 672 would grant the Communications Services Regulatory Unit (URSEC) the power to adopt “sanctioning and preventive measures” aimed at “preventing the dissemination” of audiovisual content for reasons of copyright infringement. In November, when the project only had the half approval of the Chamber of Representatives, a group of more than 20 organizations that defended human rights in the digital environment sent a letter to the Chamber of Senators to demand that the aforementioned article be withdrawn from the Budget Law draft bill.¹⁹⁹²

1259. This Office took note of a bill, finally approved by Congress on December 21, 2020, which the Executive Branch sent to regulate Article 38 of the Constitution on the right to peaceful assembly without

¹⁹⁸⁸ Observacom. October 29, 2020. [Advierten que nueva Ley de Medios de Uruguay generará más concentración y extranjerización del mapa mediático de Uruguay.](#)

¹⁹⁸⁹ Coalición por una Comunicación Democrática (CCD). June 9, 2020. Posicionamiento sobre proyecto de ley de medios. Available at: <https://bit.ly/3aUeVYR>; La Diaria. June 9, 2020. [Coalición por una Comunicación Democrática planteó críticas al nuevo proyecto de ley de medios elaborado por el gobierno.](#)

¹⁹⁹⁰ La Diaria. December 2, 2020. [Oficialismo postergaría votación de ley de medios para 2021](#); El Observador. 3 de diciembre de 2020. [Sin acuerdo y sin tiempo, Diputados deja votación de ley de medios para 2021.](#)

¹⁹⁹¹ República Oriental de Uruguay, Cámara de Representantes. [Presupuesto Nacional período 2020-2024. Proyecto del Poder Ejecutivo.](#)

¹⁹⁹² Creative Commons Uruguay. November 4, 2020. [Preocupación internacional por Ley de Presupuesto que autoriza bloqueo y bajada de contenidos audiovisuales sin orden judicial](#); Montevideo Portal. November 4, 2020. [Organizaciones preocupadas por artículo del Presupuesto sobre contenidos audiovisuales.](#)

weapons, supposedly in order to combat the increase in COVID-19 cases.¹⁹⁹³ Law No. 19.932 establishes in its article 1 that the right of assembly will be temporarily limited for public health reasons, thus suspending “the agglomerations of people that generate a notorious health risk for a period of sixty days from the publication of this law, understood as such, the concentration, permanence or circulation of people in public or private spaces for public use in which the health social distancing measures are not respected, nor the appropriate personal protection elements are used (...)”.¹⁹⁹⁴ In this context, CAinfo expressed its concern about the scope of the law and warned that the norm has an ambiguous and open wording, and does not clearly establish some definitions for its application. In addition, it questioned that its approval was sought through an emergency mechanism “that prevents a public debate where all political parties, academia, civil society, and citizens can contribute their point of view”.¹⁹⁹⁵

B. Censorship

1260. As the Office of the Rapporteur learned, the second-shift prosecutor of the department of Tacuarembó, Claudia Lete, ordered the journalist Sebastián Ríos from the community radio station *La Kandela* not to publish “assessments” on the radio without “the proper documentary evidence”, in order to avoid complaints.¹⁹⁹⁶ According to available information, on September 16 the radio had announced on its Facebook profile that in the program that night they were going to report on a municipal official who was trying to evict three families to “take over a public property.” Hours later, Juan Manuel Maneiro, the official involved, despite the fact that his name did not appear in the publication, called Sebastián Ríos to tell him to remove the publication or else he would file a claim against him for defamation. The journalist refused and reported on the case on the radio program, for which he was finally summoned to testify by the Tacuarembó Police the next day. When he declined to report the facts to the Police, he was summoned again 24 hours later, at which time he was given a notification from the second-shift prosecutor in Tacuarembó, Claudia Lete, who ordered him “when they make appraisals through the radio do so with the proper documentary evidence in order to avoid complaints such as this one”, also providing that he remains “summoned”, pending questioning by the Prosecutor's Office.

1261. Likewise, according to the media, the partner of the prosecutor Claudia Lete would be an official of the Municipality of Tacuarembó, working in the Health and Hygiene Division, the same one in which Maneiro works, as confirmed by various sources.

1262. The lawyer who assumed the defense of the reporter pointed out that the actions of the Prosecutor's Office were “irregular” and that it was a case of prior censorship, constituting a threat for the station to stop reporting on certain issues. For her part, when consulted in this regard, the Prosecutor Claudia Lete stated that “it was not the intention” to censor the journalist and that the measure had not been taken against a media but against “a private person”, despite the fact that the notification refers to the opinions disseminated “through the radio.”

C. Attacks, threats, and intimidation against journalists and the media

1263. On June 17, journalist Gabriel Pereyra, from *VTV*, *Radio Sarandí*, and *Semanario Búsqueda*, received a death threat over the phone after presenting himself to testify at the Montevideo Flagrancia Criminal Prosecutor's Office in the context of a case of threats involving the 1st Shift Narcotics Prosecutor, Mónica Ferrero, and that he had disclosed.¹⁹⁹⁷ The person who called anonymously told the journalist that he was getting involved “with some people” and that he was going to “end up in a ditch like Cano,” alluding to

¹⁹⁹³ La Diaria. December 19, 2020. [Parlamento aprobó el proyecto del Ejecutivo que limita el derecho de reunión](#); Montevideo Portal. December 16, 2020. [Gobierno reglamentará el artículo 38 de la Constitución: ¿qué significa y qué implica?](#); El País. December 17, 2020. [Artículo 38: esto dice el proyecto de ley del gobierno sobre limitar el derecho de reunión](#).

¹⁹⁹⁴ Ley 19.932. [Salud Pública. Derecho de reunión](#). December 21, 2020.

¹⁹⁹⁵ CAinfo. December 18, 2020. [CAinfo alerta ante impacto negativo de la limitación del derecho de reunión](#).

¹⁹⁹⁶ *Semanario Búsqueda*. October 22 - 28, 2020. [Fiscal de Tacuarembó le ordenó a un periodista que no publique nada sin la “debida prueba documental” para “evitar” denuncias](#); La Diaria. October 22, 2020. [Fiscal de Tacuarembó ordenó a un periodista no publicar “apreciaciones” sin “debida prueba documental”](#); CAinfo. October 23, 2020. [CAinfo solicita que se analice actuación de la fiscal Lete de Tacuarembó](#).

¹⁹⁹⁷ El País Uruguay. June 24, 2020. [El periodista Gabriel Pereyra fue amenazado de muerte, tras declarar en Fiscalía](#); Montevideo Portal. June 24, 2020. [El periodista Gabriel Pereyra fue amenazado de muerte telefónicamente](#); La Diaria. June 24, 2020. [APU se solidarizó con Gabriel Pereyra tras amenaza de muerte](#).

Guillermo Cano, director of the Colombian newspaper *El Espectador*, murdered in 1986 by hitmen linked to Pablo Escobar. Later it was determined that the call had come from a telephone located in the Libertad prison, in the department of San José.¹⁹⁹⁸

1264. According to available information, the journalist usually covers public safety issues such as drug trafficking, confrontation between criminal gangs, and child sexual abuse. Likewise, according to *Radio Sarandí*, the journalist reportedly "insinuated that he has relevant information on other issues that have not yet been made public." The complaint was placed under investigation by the Flagrancia Prosecutor Rodrigo Morosoli and members of the Police Intelligence. The Office of the Special Rapporteur for Freedom of Expression, through the then Rapporteur Edison Lanza, expressed its solidarity with the communicator and recalled that the State has the obligation to investigate and punish those material and intellectual authors responsible for the events, in addition to providing police protection given the existence of a certain risk.¹⁹⁹⁹

1265. Likewise, the Office of the Special Rapporteur learned of the online harassment that *Canal 12* journalist Iliana da Silva suffered in June after a coverage in the area near the Legislative Palace during a mobilization of transporters to protest the salary cuts, where they would have assaulted a person with a disability. According to publicly known information, the journalist reportedly received insults, threats, and accusations through Twitter that denoted a clear component of gender-based violence. Some messages even asked that she be fired by the media.²⁰⁰⁰

D. Access to public information and COVID-19

1266. After the outbreak of the pandemic, the media reported that the Government did not provide detailed and complete information on the coronavirus; for example, unlike other States in the region, it does not present data disaggregated by age and sex, nor does it provide distribution by departments, nor does it report suspicious cases.²⁰⁰¹ In addition, the local press pointed out that the Ministry of Public Health (MSP) allegedly had declared "confidential" the information regarding the progress of the disease in the country, specifically about which are the mathematical models used by the health authority to calculate the progress of infections in the national territory. On this issue, CAinfo urged the authorities to comply with transparency in the handling of information on the coronavirus. As reported by the organization, the MSP would have responded that they have not formally declared the information requested as "confidential" and that, if circumstances warrant it, it would be done according to the law and with justification.²⁰⁰²

1267. The Office of the Special Rapporteur observed that the State did not promote regulatory or operational changes to the Access to Public Information Unit (UAIP), the body that guarantees access to public information, in the context of the health emergency. On the other hand, the Office welcomes the creation of the Access to Public Information System (SAIP), through which any natural or legal person can make requests to public bodies. As reported by the Government, currently the project only reaches the Central Administration, but it is expected that it will be extended to all subjects required by law.²⁰⁰³ In this sense, the Regional Alliance for Free Expression and Information highlighted in a regional report that the Uruguayan body that guarantees the right of access to information has promoted consultation through virtual means.²⁰⁰⁴

E. Prosecution

¹⁹⁹⁸ Montevideo Portal. July 9, 2020. [La amenaza de muerte al periodista Gabriel Pereyra salió del penal de Libertad](#); Twitter Account of Gabriel Pereyra. [July 9, 2020](#).

¹⁹⁹⁹ Twitter account of (@EdisonLanza). [June 24, 2020](#).

²⁰⁰⁰ Caras y Caretas. June 25, 2020. [No hay democracia sin prensa libre](#); Pantallazo. June 24, 2020. [Cobertura de agresión a persona con discapacidad en protesta de transporte generó críticas](#); CAinfo. June 24, 2020. [CAinfo repudia amenaza de muerte a Gabriel Pereyra y acusa en línea a Iliana da Silva](#).

²⁰⁰¹ La Diaria. April 4, 2020. [Vacíos informativos sobre la covid-19 en Uruguay](#).

²⁰⁰² CAinfo. March 20, 2020. [CAinfo exhorta a las autoridades a cumplir con la transparencia en el manejo de la información sobre el coronavirus](#).

²⁰⁰³ Gobierno de Uruguay, Unidad de Acceso a la Información Pública. [Está disponible el nuevo Sistema de Acceso a la Información Pública \(SAIP\)](#). June 12, 2020.

²⁰⁰⁴ Alianza Regional por la libre expresión e información. [Saber más XI. El impacto de la pandemia de COVID-19 sobre el derecho de acceso a la información en la región](#). September 28, 2020.

1268. The Office of the Special Rapporteur welcomes the decision of the Montevideo Criminal Court of First Instance that sentenced former Lt. Col. José Gavazzo to 25 years in prison when it found him to be the co-author of the “very especially aggravated” homicide of the educator and journalist Julio Castro, committed in 1977 during the dictatorship. Julio Castro was last seen by his family 43 years ago and his remains were found in 2011 on a military property.²⁰⁰⁵ In the sentence, the judge recalled that when analyzing his remains there were “certain indications that he had been handcuffed, tortured, and executed with a shot to the head.” In December 2006, at the end of its working visit to the Eastern Republic of Uruguay, the IACHR’s Office of the Special Rapporteur for Freedom of Expression had recommended that the State promote investigations related to the disappearance of the teacher and journalist Julio Castro.²⁰⁰⁶

1269. The IACHR welcomed the decision of the Uruguayan Justice, highlighting that the decision is consistent with the State’s obligation to investigate and punish serious human rights violations that occurred during the Uruguayan civil-military dictatorship, as well as guarantee the rights to truth, justice, and reparation.²⁰⁰⁷

F. Other relevant situations

1270. The Office of the Special Rapporteur observed with particular concern a context of massive dismissals of journalists from some media outlets as a result of the economic crisis generated by COVID-19. In April 2020, at the beginning of the pandemic, the president of the Uruguayan Press Association (APU) warned about the number of dismissals and pointed out that there would be more than 350 press workers sent to the total or partial unemployment insurance, which according to the information available would come mainly from the newspapers *El País*, *La República*, *El Observador*, as well as some audiovisual media such as *Canal 10* and *Canal 12*, the *Océano FM* radio and other AM radios.²⁰⁰⁸

1271. In July, more than 20 workers from the TV company Equital were arbitrarily dismissed. According to publicly known information, the dismissals would mainly affect workers who were members of trade unions or put the activities of trade union organizations on their agendas, such as journalists associated with the Single Union of Subscribers and Related TV Workers (SUTTAA), members of the Uruguayan Press Association (APU) and even its vice president. The president of APU, Fabián Cardozo, expressed concern about the “union repression” and explained that it would be a way of “beheading the union organization in places where there are many technical workers so that the union has no influence”.²⁰⁰⁹ On the other hand, the Office of the Special Rapporteur received information that the Romay Group (*Canal 4*) reportedly fired 28 workers from its cable TV company, Montecable.²⁰¹⁰

1272. Additionally, on November 4, 49 employees of public radio stations (*Radio Uruguay*, *Babel*, *Radio Clásica*, and *Emisora del Sur*) received the news that their employment contracts will not be renewed after they expire on December 31, 2020.²⁰¹¹ According to the information available, the National Audiovisual Communication Service (Secan) explained that the decision responds to their intention to improve the proposal of the public media and to renew the programming to improve the ratings, in addition to

²⁰⁰⁵ La Diaria. April 22, 2020. [Justicia condenó a Gavazzo a 25 años de prisión por asesinato de Julio Castro](#); Sputnik. April 22, 2020. [Justicia uruguaya condena a exmilitar de la dictadura a 25 años por asesinato a maestro](#); Infobae. April 23, 2020. [El ex militar José Nino Gavazzo fue condenado a 25 años de prisión por un crimen ocurrido durante la dictadura en Uruguay](#).

²⁰⁰⁶ IACHR. Office of the Special Rapporteur for Freedom of Expression. December 16, 2006. [Press Release 159/06 Office of the Special Rapporteur for Freedom of Expression Releases Recommendations to Uruguay at the Conclusion of its Working Visit](#).

²⁰⁰⁷ Twitter account of IACHR (@CIDH). [April 23, 2020](#).

²⁰⁰⁸ Sudestada. March 29, 2020. [Coronavirus golpea al periodismo: casi 300 trabajadores al seguro de paro total o parcial](#); Asociación de la Prensa Uruguaya. March 30, 2020. [Más de 300 trabajadores de medios de comunicación fueron enviados al seguro de paro](#); Caras y Caretas. April 13, 2020. [APU muestra preocupación ante despidos y el masivo envío al seguro de paro de trabajadores](#); El Eco. June 16, 2020. [Despidos y trabajo rotativo acorralan a periodistas](#); La Mañana. August 12, 2020. [Preocupación y polémica por aumentos de despidos en medios de comunicación](#).

²⁰⁰⁹ International Federation of Journalists (IFJ). July 31, 2020. [Uruguay: denuncian persecución y despidos entre periodistas sindicalizados](#); Caras y Caretas. August 5, 2020. [Despidos preferentemente sindicales en la prensa uruguaya](#); Telesur. August 6, 2020. [Trabajadores de prensa en Uruguay denuncian despidos y crisis](#).

²⁰¹⁰ Caras y Caretas. July 24, 2020. [APU rechaza el despido de 28 trabajadores de la empresa Montecable](#); Twitter account of Asociación de la Prensa Uruguaya (@apu_uy). [July 24, 2020](#).

²⁰¹¹ El Observador. November 4, 2020. [Las radios públicas desvinculan a 49 trabajadores](#); El Observador. November 5, 2020. [Impacto en las radios públicas por desvinculación de 49 empleados](#); Caras y Caretas. November 4, 2020. [Reestructuras y despidos para silenciar las Radios Públicas](#).

"rationalizing the investment of human capital". The director of the Secan, Gerardo Sotelo, stated in an interview with the press that "nobody celebrates that there are people who are left without a contract and without a program, but it seems clear that we have acted with prudence and consideration. Unless it is intended to deny the right of this administration to guide the programming of the public media according to its own definitions".²⁰¹² Following this announcement, the International Federation of Journalists (FIP) and its affiliated organization, the Uruguayan Press Association (APU), expressed their concern over the cutbacks and urged a dialogue to retain jobs. "In the current circumstances of serious generalized crisis in the media, with several dozen workers dismissed, media closures, job insecurity, and deterioration in the quality of information, this decision by a state agency further deepens this unfortunate reality," the APU said in a statement.²⁰¹³

1273. The economic crisis also affected the sustainability of the media. The newspaper *El Observador* decided to keep the paper format only on weekends from April 6, while from Monday to Friday it began to operate in an exclusively digital version.²⁰¹⁴ Also, some TV channels canceled some of their programming.

1274. Finally, among other relevant situations, the Office of the Special Rapporteur highlights the decision of the Supreme Court of Uruguay adopted on August 17, 2020, which dismissed the unconstitutionality appeal filed by the Uruguayan Football Association (AUF) against article 39 of Law No. 19,307 (Media Law) that requires broadcasting by open television the matches of the soccer and basketball teams in "defining instances of national tournaments".²⁰¹⁵ The Court emphasized that the AUF's right to television "is not an absolute right that, for the benefit or patrimonial gain of the AUF, obligates the State to completely refrain from regulating how such right is exercised, if it is intended to protect and reconcile with other constitutionally protected values". In this sense, it recalled that "the particular (economic) sacrifice attributed to the holder of the television right (in this case transferred by legal business for certain events to the plaintiff company) appears as an essential measure in order for the population to access sensitive information that serves as a relevant cultural contribution to society. It is about guaranteeing access to relevant data for public opinion due to the values that sport extols". In this way, the Highest Court understood that the fact that certain sporting events specifically foreseen are not covered by exclusivity clauses does not imply a "decline in business", and that "it is not true that the subsistence of the entity or the price obtained by the cession of the television rights is unreasonably liquefied". On the other hand, the Court did declare paragraph 3 of article 39 of the Media Law unconstitutional, which exceptionally enables the Executive Branch to include additional events in this modality "by means of a founded resolution and prior report from the Audiovisual Communication Council."

1275. In view of the aforementioned facts, this Office calls on the State of Uruguay to take into special consideration that:

1276. **Social protest, which includes the rights of peaceful assembly and without arms, association, and freedom of expression, is a fundamental tool in the defense of democracy and human rights.** Protest is usually an important means of action and pursuit of legitimate objectives by organizations and groups, and as such it is also protected by the right to freedom of association, provided for in Article XXII of the American Declaration and Article 16 of the American Convention on Human Rights.²⁰¹⁶ The IACHR has indicated that States are obligated to guarantee and facilitate the exercise of human rights that are put into play during demonstrations and protests and to implement measures and mechanisms so that these can be exercised in practice, not as a way to obstruct them.²⁰¹⁷

1277. **The allocation of radio and television licenses must be guided by democratic criteria and pre-established, public, transparent, and equal procedures.** Article 13.3 of the American Convention

²⁰¹² El Observador. November 4, 2020. [Las radios públicas desvinculan a 49 trabajadores.](#)

²⁰¹³ Federación Internacional de Periodistas. November 6, 2020. [Uruguay: Cesan los contratos de 40 trabajadores de la Radio Pública.](#)

²⁰¹⁴ El Observador. 1 de abril de 2020. [Carta del director: "Nos transformamos"](#); Info Negocios. April 3, 2020. [El Observador le dice chau al papel todos los días. Saldrá impreso solo de forma semanal.](#)

²⁰¹⁵ Poder Judicial de Uruguay. August 28, 2020. [SCJ declara que el derecho de televisión de la AUF no es absoluto](#); El Observador. August 28, 2020. [Suprema Corte rechazó recurso de la AUF y consideró legal que partidos definitorios vayan por TV abierta](#); El País Uruguay. August 28, 2020. [SCJ rechazó recurso de la AUF y los partidos definitorios se seguirán viendo en tv abierta.](#)

²⁰¹⁶ IACHR. [Protest and Human Rights](#). OEA/Ser.L/V/II. CIDH/RELE/INF.22/19. September 2019. Par. 20.

²⁰¹⁷ IACHR. [Protest and Human Rights](#). OEA/Ser.L/V/II. CIDH/RELE/INF.22/19. September 2019. Par. 28.

establishes that “[t]he right of expression may not be restricted by indirect methods or means, such as the abuse of government or private controls over newsprint, radio broadcasting frequencies, or equipment used in the dissemination of information, or by any other means tending to impede the communication and circulation of ideas and opinions.”. Also, Principle 13 of the Declaration of Principles on Freedom of Expression of the Inter-American Commission on Human Rights indicates that “the exercise of power and the use of public funds by the state, the granting of customs duty privileges, the arbitrary and discriminatory placement of official advertising and government loans; the concession of radio and television broadcast frequencies, among others, with the intent to put pressure on and punish or reward and provide privileges to social communicators and communications media because of the opinions they express threaten freedom of expression, and must be explicitly prohibited by law”.

1278. **Freedom of expression applies to the Internet in the same way as to all media.** The Office of the Special Rapporteur reiterates that limitations on the operation of websites, blogs, applications, or other information dissemination systems on the internet will be admissible only to the extent that they are compatible with the conditions provided for the limitation of freedom of expression.²⁰¹⁸ Only in exceptional cases, when dealing with openly illegal content or speeches not protected by the right to freedom of expression, is it admissible to adopt mandatory measures to block and filter specific content, for which it must be subjected to a strict test of proportionality and be carefully designed and clearly limited in such a way that it does not reach legitimate speech that deserves protection.²⁰¹⁹

1279. **The inter-American human rights system explicitly prohibits prior censorship.** The Office of the Special Rapporteur recalls that Article 13.2 of the American Convention explicitly states that the exercise of freedom of expression cannot be subject to prior censorship. Further, Principle 5 of the Declaration of Principles on Freedom of Expression, which establishes that “[p]rior censorship, direct or indirect interference in, or pressure exerted upon any expression, opinion, or information transmitted through any means of oral, written, artistic, visual, or electronic communication must be prohibited by law. Restrictions to the free circulation of ideas and opinions, as well as the arbitrary imposition of information, and the imposition of obstacles to the free flow of information violate the right to freedom of expression.”

1280. **Transparency and accountability of public powers strengthen democratic systems.** Finally, the Office of the Special Rapporteur recalls that access to public information is a fundamental right of individuals and the States are obligated to guarantee its exercise. In the context of the health emergency, based on the obligation of active transparency, States must proactively provide truthful and reliable information on all aspects of public interest related to the pandemic, in open formats and in a manner accessible to all. Given the existence of the digital divide, States must find effective ways to fulfill the obligation of active transparency in such circumstances.²⁰²⁰

²⁰¹⁸ IACHR. Office of the Special Rapporteur for Freedom of Expression. [Standards for a Free, Open and Inclusive Internet](#). OEA/Ser.L/V/II CIDH/RELE/INF.17/17. March 15, 2017. Par. 85.

²⁰¹⁹ IACHR. Office of the Special Rapporteur for Freedom of Expression. [Freedom of Expression and the Internet](#). OEA/Ser.L/V/II. IACHR/RELE/INF. 11/13. December 31, 2013. Par. 85.

²⁰²⁰ IACHR. Special Rapporteurship for Freedom of Expression. April 18, 2020. [Press release R78/20. IACHR and its SR FOE express concern about restrictions on freedom of expression and access to information in States' response to the COVID-19 pandemic](#).

VENEZUELA

1281. Throughout 2020, serious violations to the right to freedom of expression continued to be the rule in Venezuela. The IACHR and its Office of the Special Rapporteur registered an unprecedented increase in arbitrary detentions of journalists and citizens as a result of publications of information or opinions that questioned the ruling party's version.

1282. The impact of the COVID-19 pandemic in the country exacerbated the political and social conflict, as it aggravated the shortage of services and basic supplies, such as fuel, food, electricity, and medicines, with the consequent increased risk for journalists and for the exercise of citizen protests. In this context, the IACHR and its Office of the Special Rapporteur observed with concern the increase in arbitrary detentions for reporting or expressing criticism in the digital space, without due process guarantees, and that in addition to affecting journalists, it extended to political opponents, health personnel, or citizens who expressed critical opinions on social networks or disseminated information about the crisis in various sectors of the country.

1283. The IACHR and the Office of the Special Rapporteur observe that most of these detentions resulted in the accusation of crimes contained in the Constitutional Law against Hate, for Peaceful Coexistence, and Tolerance, known as the "Law Against Hatred", and were accompanied by pre-trial detention measures and prohibition of expression on different issues related to the crisis in the country. Likewise, on numerous occasions, members of the security forces temporarily detained or attacked press workers to scrutinize their work equipment and eliminate photographs or videos that documented events of public interest, such as protests against the difficulties of Venezuelans to obtain basic supplies. The security forces have also restricted access of the press to health centers and, in general, medical and hospital officials have been prevented from providing information to the media about the health situation in the face of the pandemic.

1284. Likewise, during 2020 the IACHR became aware of alleged state orders to Internet providers to systematic block and censors the websites of journalistic media, social organizations, and digital platforms,

which particularly affected the media that report on political and social issues with independence, or that included in their coverage the opposition leader and president of the National Assembly, Juan Guaidó. In addition, there were recurring failures in Internet connectivity and interruptions in the electric power service, which limited the flow of information and hampered the work of the media. The closure of several stations ordered by the National Telecommunications Commission (Conatel), the raid of different media by police officers in the framework of criminal investigations, and the departure of the DirecTV television service from the country due to sanctions imposed by the United States, further reduced citizens' access to a variety of information sources, not controlled by the state.

A. Murders

1285. On August 22, journalists Andrés Eloy Nieves Zacarías and Víctor Torres were murdered during an operation by the Special Actions Forces (FAES) at the headquarters of the community channel *Guacamaya TV*, in Cabimas, Zulia state. Víctor Torres is the son of the channel's director, Franklin Torres, who denounced that the security forces entered the channel's headquarters "violently" and, after the murder, seized all the equipment from the television floor.²⁰²¹ The Office of the Special Rapporteur condemned the murder of the journalists and urged the State to fully, effectively, and impartially investigate the material and intellectual authors of these crimes, and the link to journalistic activity.²⁰²²

1286. The attorney general, Tarek William Saab, reported on August 25 that the Prosecutor's Office (MP) charged two officials of the Special Actions Forces (FAES) of the Bolivarian National Police (PNB) for the murder of the communicators. Attaché officers José Contreras and Néstor Olano were charged with the crimes of homicide classified as treachery, improper use of organic weapons, simulation of a punishable act, and violation of the domicile by a public official. The MP also ordered the judicial arrest of seven other public officials for their connection to the case.²⁰²³

B. Attacks, threats, and intimidation against journalists and the media

1287. The Office of the Special Rapporteur learned of repeated episodes of attacks, intimidation, and harassment against journalists and media workers, committed both by individuals and by State officials, in order to prevent or obstruct journalistic work and the dissemination of information and opinions contrary to the official speech.²⁰²⁴

1288. On February 11, at least 14 press workers were attacked by government supporters in the vicinity of the Simón Bolívar International Airport while waiting for the arrival of the president of the National Assembly, Juan Guaidó. According to available information, several press workers suffered physical injuries as a result of the attacks, which allegedly occurred due to the inaction of officials from the Bolivarian National Police (PNB) and the Bolivarian National Guard (GNB). Two days later, the president of the National Constituent Assembly and first vice president of the United Socialist Party of Venezuela (PSUV), Diosdado

²⁰²¹ Infobae. August 23, 2020. [Dos periodistas venezolanos fueron asesinados durante un operativo de las fuerzas del régimen de Maduro en Zulia](#); Reporters Without Borders (RSF). August 25, 2020. [Asesinados los periodistas Andrés Eloy Nieves Zacarías y José Carmelo Bislick en apenas una semana](#).

²⁰²² IACHR. Office of the Special Rapporteur for Freedom of Expression. August 26, 2020. [Relatoría Especial condena el asesinato de los periodistas Andrés Eloy Nieves Zacarías y Víctor Torres en Venezuela e insta a investigar posible participación de agentes estatales y vínculo con su actividad periodística](#).

²⁰²³ France24/EFE. August 23, 2020. [Fiscalía de Venezuela investiga "presunta ejecución extrajudicial" de dos trabajadores de medio chavista](#); Infobae. August 25, 2020. [Procesan a 8 policías por muerte de periodista venezolano](#); IPYS. August 25, 2020. [Ministerio Público imputó a funcionarios de la FAES por asesinato perpetrado en sede de Guacamaya TV en Zulia](#).

²⁰²⁴ The Chief of Security of the Municipality of Vargas, Carlos Eduardo Martínez Terán, assaulted photojournalist Larry Alvarado, of news outlet *La Verdad de Vargas*, when he was covering the eviction of apartments on August 16 (Espacio Público. August 17, 2020. [Jefe de Seguridad de la Alcaldía de Vargas agrede al reportero gráfico Larry Alvarado](#)). The work of press teams from *Venezolanos por la Información* (VPI TV), *El Pitazo* and *Primera Noticia*, was hampered in Falcón state during August 20 and 21 (IPYS. August 27, 2020. [Cuatro reporteros en Falcón fueron limitados el 20 y 21 de agosto](#)). Two unidentified individuals threatened reporter Joel Barreto, from the citizen journalism project *El Bus Tv*, at his home located in Chapellín, Caracas, on October 13. The men warned him that "he had to take care of himself, that they knew what he was doing" (Twitter of El Bus TV (@elbustv). [October 13, 2020](#)). Guardia Nacional Bolivariana (GNB) guards detained the *ImpactoVe* team for a few minutes when it was filming outside the El Palito refinery, in the state of Carabobo, while covering the arrival of Iranian ships to Puerto Cabello, on September 29. (Espacio Público. September 30, 2020. [GNB detuvo a dos periodistas y a un fotógrafo en Carabobo](#)).

Cabello, reportedly made fun of the attacks, describing the aggressors as “patriotic people” in his program “Con el mazo dando”, broadcasted by the State channel, *Venezolana de Televisión* (VTV).²⁰²⁵

1289. On April 16, the journalist and host of the digital media *Venezolanos por la Información* (VPI TV), Sergio Novelli, denounced that officials from the General Directorate of Military Counterintelligence (DGCIM) came to his previous address, where another family now resides, with an “order for an alleged investigation” and took four computers and five telephones. The night before, the president of the National Constituent Assembly, Diosdado Cabello, had referred to Novelli and four other journalists as “palangristas” in the program “Con el Mazo Dando.” Likewise, on April 21 on *VTV*, President Nicolás Maduro described Novelli as a “mercenary of communication” after he conducted an interview with Venezuelans who were returning to the country and warned them about the confinement conditions they would have to face.²⁰²⁶

1290. In other worrying events registered by the Office of the Special Rapporteur, on March 4, the journalist Bleima Márquez of the *La Nación* newspaper was detained for two hours for taking photographs of a traffic jam²⁰²⁷; unknown groups painted threatening messages in areas in Caracas near the residence of journalist Federico Black, on April 26²⁰²⁸; the correspondent of *Russia Today* (RT) in Venezuela, Érika Ortega, was threatened through the Twitter account of the company Silvercorp USA, on May 3²⁰²⁹; journalist Esther Yáñez, from the Russian media *Sputnik Mundo*, was intimidated by a GNB official while on a tour of a service station in the La Florida urbanization in Caracas on April 2²⁰³⁰ and later, she received threats through social networks²⁰³¹; a *Ultima Hora* press team was held for an hour and a half by DGCIM and GNB officials in Chuao, Caracas, on June 5²⁰³²; social communication student Roger Luna, a reporter for *El Bus TV*, was forced by a policeman to delete photographs he took after taping a flip chart on a wall in the center of the city of Trujillo, on May 22²⁰³³; Users on the social network Twitter attacked the *Diario Tal Cual* and the reporter Carlos Seijas with threatening and homophobic messages, after they published a series of reports about the LGBT community.²⁰³⁴ Journalists from the media *ImpactoVE*, *NTN24*, *Univisión*, *El Pitazo* and *Venezolanos por la Información* (VPItv) were attacked by violent groups on August 10 while covering the repercussions of an attempted assault on the headquarters of the Democratic Action party in the urbanization La Florida, Caracas.²⁰³⁵

1291. In particular, the IACHR and its Office of the Special Rapporteur noted that the news coverage on the fuel shortage and the difficulties derived from it was the subject of constant actions by security force officials to silence it, from the detention of reporters and press workers or citizens who registered the long waits at the fuel stations, to the elimination of photographs and videos that documented the difficulties in the supply. The complaints and criticisms about the shortage situation were silenced by the government authorities even through the use of criminal law.²⁰³⁶

²⁰²⁵ IPYS. 13 de febrero de 2020. [Trabajadores de la prensa exigieron ante la Fiscalía y Defensoría del Pueblo el cese de la impunidad en casos de agresiones al gremio](#); Espacio Público. 30 de abril de 2020. [El virus de la desinformación. Situación del derecho a la libertad de expresión. Enero – Abril de 2020](#).

²⁰²⁶ IPYS. April 25, 2020. [Prevalecen ataques a periodistas y medios durante la cuarentena](#); Espacio Público. April 17, 2020. [Funcionarios de la Dgcim allanaron la casa del periodista Sergio Novelli](#); El Nacional. April 22, 2020. [Maduro atacó a Sergio Novelli y lo acusó de mercenario](#).

²⁰²⁷ La Patilla. 4 de marzo de 2020. [PoliTáchira detuvo a la periodista Bleima Marquez en San Cristóbal](#).

²⁰²⁸ Espacio Público. April 28, 2020. [«Furia Bolivariana» amenazó la casa del periodista Federico Black](#).

²⁰²⁹ Espacio Público. May 5, 2020. [Amenazan a corresponsal de RT en Venezuela](#).

²⁰³⁰ Espacio Público. April 8, 2020. [GNB intimida a periodista de Sputnik Mundo en Caracas](#).

²⁰³¹ Espacio Público. July 28, 2020. [Amenazan a la periodista Esther Yáñez en la red social Twitter](#).

²⁰³² Twitter Account of VPItv (@VPITV). [June 5, 2020](#).

²⁰³³ IPYS. June 15, 2020. [Reportero de El Bus TV fue coaccionado a borrar fotografías en Trujillo](#).

²⁰³⁴ IPYS. July 3, 2020. [Amedrentados por trabajo sobre el mes de orgullo LGBT un periodista y Diario Tal Cual](#).

²⁰³⁵ Espacio Público. August 11, 2020. [Sujetos no identificados atacan a la prensa en la sede del partido Acción Democrática](#).

²⁰³⁶ Among other registered cases, on May 8, Guardia Nacional Bolivariana (GNB) guards held Rolando Rodríguez, driver of the *La Prensa de Lara* information website, for an hour when he was about to get fuel for his car at a gas station in Barquisimeto, state of Lara, and he filmed with his cell phone while he was being removed from the site (Espacio Público. May 10, 2020. [Funcionarios de la GNB detienen a chofer de La Prensa de Lara](#)). A GNB colonel deleted the material that Pedro García, a journalist from regional channel *UniTv*, recorded during a routine tour of a gas station in Nueva Esparta state, on May 27. (Espacio Público. May 28, 2020. [Coronel de la GNB intimidó y borró el material del periodista de UniTV](#); IPYS. June 4, 2020. [Periodista neoespartano fue obligado a borrar video de cola de gasolina](#)). María Fernanda Bolívar, a journalist for the *Todos Ahora* website, was intimidated by a GNB guard while collecting testimonies from people who wanted to get gasoline in Anzoátegui state, on June 3 (Espacio Público. June 4, 2020. [GNB intimidó a la periodista María Bolívar en una estación de servicio](#)). On August 16, two GNB guards harassed and threatened reporter Fabiola Matheus and cameraman

1292. According to public information, authorities continued the practice of preventing access to journalists and of eliminating the records and images of episodes whose dissemination was not of interest to the authorities²⁰³⁷. For example, Trujillo State Police (Politrujillo) officials reportedly intimidated the *Palpitar Trujillano*'s journalistic team when they were covering a lynching on May 19, asking them to leave and hand over their work equipment²⁰³⁸. On July 9, the supervisor of PoliIndependencia in Santa Teresa, Manuel Acevedo, reportedly called the newspaper *La Voz* of Tuy and threatened journalist Jean Carlos Rodríguez, warning the receptionist that he was going to "screw him up" and that "he would send for him with the Interpol", after the reporter denounced on Twitter alleged irregular privileges granted to a detained councilwoman. As the IACHR and its Office of the Rapporteur learned, Rodríguez has been exiled from the country due to the repeated threats that he has received in the exercise of his profession.²⁰³⁹

1293. The journalist for *Crónica Uno*, Gregoria Díaz, a correspondent for the Press and Society Institute (IPYS), suffered repeated harassment by officials of the city hall and the town halls of Aragua state, after she published a tweet in February about a person hospitalized in the Hospital Military of Maracay.²⁰⁴⁰

1294. Likewise, the mayor of Puerto Cabello, Juan Carlos Betancourt, threatened the correspondent of *El Pitazo*, Francisco Chirinos, journalist Alexandra Rojas of the digital medium *Pateando la Calle*, and the announcer Juan Vargas of the station *Modulación* 100.3 FM, for publishing information that linked him to an alleged network for the sale in dollars of medicines that were from the public hospital network. "Get ready because I am coming with everything against you. You will have to answer for accusing me without proof," he said on September 23 on his radio program, where he called Rojas a "pseudo-journalist" and called Chirinos a "fool".²⁰⁴¹

1295. The mayor of Tinaco, Cojedes state, José Rivas, threatened journalist Eduardo González during a phone call he made to his radio program, broadcasted by the *Ritmos* 96.9 FM station, on October 6: "I'm coming for you if you don't behave well. And I'll go after the station too," he warned the journalist.²⁰⁴²

1296. Reporter Jamel Louka was attacked with a grenade and shot by armed individuals on December 2, in the town of Altigracia de Orituco, Guárico state, while on his way to work. Louka, a reporter and photographer for *Diario La Antena* and a collaborator of *El Pitazo*, was shot at twice and required medical attention. Louka stated that he did not know the motive for the attack but said that he frequently received criticism from local government officials for his articles on the shortages of food, water, medicine, and electricity in the wake of the economic crisis. The National Association of Journalists, like other national and

Richard Mantilla, from the newspaper *El Tiempo*, while they were touring gas stations in Valera, Trujillo state. The guards seized the journalist's cell phone and deleted the material she had filmed. (Espacio Público. August 26, 2020. [GNB hostigó y amenazó al equipo periodístico del Diario El Tiempo en Valera](#); IPYS. August 31, 2020. [GN eliminó fotografías a periodista de Diario El Tiempo en Valera](#)). Journalist Edecio García Sosa was verbally assaulted by officials of the state gas distributor Cadigas Barinas S.A while filming the delivery of gas cylinders to a commercial outlet on August 20 (IPYS. August 25, 2020. [Comunicador fue amenazado e insultado por funcionarios de empresa estatal de gas en Barinas](#)); Yanitza Martínez, a journalist for *Diario El Informante*, from the city of Carora, Lara state, denounced that a GNB captain complained to her because the newspaper's photojournalist took pictures of a gas station on October 5, and demanded that they erase the pictures to let them go. IPYS. October 6, 2020. [Periodista de Diario El Informante en Carora fue intimidada por funcionaria de la GNB](#); Espacio Público. October 7, 2020. [GNB intimidó al equipo periodístico de El Informante en Lara](#). An agent from the Cuerpo de Investigaciones Científicas, Penales y Criminalísticas (Scientific, Penal, and Criminal Investigation Service Corps, CICPC) harassed and threatened reporters Jenifer Orozco and Ángela Peroza of *La Prensa de Lara*, when they were reporting from the Municipal Cemetery of Iribarren, in Barquisimeto, Lara state, on November 24. Espacio Público. November 24, 2020. [Comisario del Cicpc intimida, hostiga y amenaza al equipo de La Prensa de Lara](#); IPYS. November 26, 2020. [Funcionaria del CICPC amenazó a reporteras de La Prensa de Lara](#).

²⁰³⁷ ²⁰³⁷ Other reported cases: Journalists from *Venezolanos por la Información (VPITV)*, *Caraota Digital* and *Termómetro Nacional* in Carabobo state were intimidated and persecuted by workers from the Instituto de Ferrocarriles del Estado (IFE) in Guacara, on July 14, while they were reporting on a section of the railway system that is not working. IPYS. July 19, 2020. [Periodistas en Carabobo fueron perseguidos e intimidados en Guacara](#); Twitter account of IPYS (@ipysvenezuela). [July 14, 2020](#).

²⁰³⁸ Espacio Público. May 20, 2020. [PoliTrujillo intimidó a equipo periodístico que cubría la fuente sucesos](#).

²⁰³⁹ Espacio Público. July 9, 2020. [Un efectivo de PoliIndependencia amenazó al periodista Jean Carlos Rodríguez](#); El Nacional. July 9, 2020. ["Te vamos a joder": amenazan a periodista por denunciar privilegios para una concejal en Valles del Tuy](#); Twitter account of Sindicato Nacional de Trabajadores de la Prensa (@sntpvenezuela). [July 9, 2020](#).

²⁰⁴⁰ A Punto. September 28, 2020. [Sntp repudió acoso de la Gobernación de Aragua contra la periodista Gregoria Díaz](#); Espacio Público. October 4, 2020. [Funcionarios hostigan a la periodista Gregoria Díaz](#); Monitoreamos. September 28, 2020. [Denuncian campaña de hostigamiento de la gobernación de Aragua contra periodista Gregoria Díaz](#).

²⁰⁴¹ IPYS. September 25, 2020. [Alcalde de Puerto Cabello amenazó con acciones legales a periodistas en Carabobo](#); Espacio Público. September 24, 2020. [El alcalde de Puerto Cabello hostigó y amenazó con demandar a periodistas en Carabobo](#).

²⁰⁴² Espacio Público. October 8, 2020. [Alcalde de Tinaco amenazó a periodista durante un programa radial](#).

international organizations, demanded that the authorities urgently initiate an investigation into the incident²⁰⁴³.

C. Arbitrary detentions

1297. According to monitoring by the NGO Espacio Público, between January and August there were 135 arbitrary detentions in Venezuela, the majority of journalists, media workers, or ordinary citizens exercising their freedom of expression.²⁰⁴⁴

1298. According to the information received, several journalists were detained for reporting on fuel shortages in different regions of the country²⁰⁴⁵. Some of the most serious cases that the Office of the Special Rapporteur became aware of are the detention, on April 15, of journalist Eduardo Galindo, director of the web portal *Senderos de Apure*, by agents of the National Anti-Extortion and Kidnapping Command (Conas). The journalist's brother and his wife were also detained, and computers and home phones were confiscated. Galindo's detention would be related to his reports on the fuel shortage in the region. He was released from detention on May 4, after being charged with the crimes of "spreading false information"²⁰⁴⁶. Radio host Wilfredo Rodríguez was also detained by Conas on May 7 for denouncing irregularities in the sale of gasoline in the Delta Amacuro state on his Facebook. He was accused of the crime of "insult to the public official" and released five days later, under the precautionary measure of presentation every 30 days.²⁰⁴⁷

1299. On August 31, President Nicolás Maduro granted a pardon to more than 100 political prisoners, legislators, journalists, human rights defenders, health workers, union workers, and members of civil society in general, several of whom had been convicted or were subject to criminal proceedings for exercising their right to freedom of expression. "The intention is to deepen the process of national reconciliation for the next electoral process," declared the Minister of Communication, Jorge Rodríguez, during the reading of the grace measure on television. Among those pardoned from judicial proceedings initiated based on the exercise of their freedom of expression are Marco Antoima, Luisa Mimi Arriaga, Elio Mendoza, Tania Rodríguez, Fernando Marcano, Wilmer Quintana, Nicmer Evans, Andrea Sayago, and Rubén González.²⁰⁴⁸

1300. In addition, the IACHR and its Office of the Special Rapporteur received information that officials from the Directorate of Military Counterintelligence (Dgcm) detained Rafael Hernández, a photojournalist from the news channel *NTN24*, on September 1, for taking a photograph of an officer in Boleíta, Caracas, within the framework of the coverage of the release of political prisoners after the pardon granted by Nicolás Maduro. The photographer was detained for about an hour and had to delete the photograph.²⁰⁴⁹

1301. It was also reported to this Office that on September 9, officials of the Bolivarian National Police (PNB) beat and detained doctor Williams Arrieta Nava after he complained they were letting vehicles that were not in line to load fuel pass at a service station in Puerto Ordaz, Bolívar state. The doctor's wife was also

²⁰⁴³ Twitter Account of CNP Caracas (@CNPCaracas). [December 2, 2020](#); El Nacional. December 2, 2020. [Reportero gráfico fue víctima de un atentado en Altagracia de Orituco](#); Committee to Protect Journalists (CPJ). December 4, 2020. [Venezuelan journalist Jamel Louka shot, injured in attack](#).

²⁰⁴⁴ Espacio Público. September 4, de 2020. [Agosto: el uso de la fuerza para silenciar la protesta](#).

²⁰⁴⁵ On May 8, Rolando Rodríguez, a driver of the *La Prensa de Lara* information website, was arrested by GNB guards for filming how he was being removed from a gas station when he tried to get fuel for his car in Barquisimeto, Lara state. (Espacio Público. June 4, 2020. [Mayo: confinamiento, intimidación y detenciones](#); Twitter account of La Prensa de Lara (@laprensalar). [May 8, 2020](#)). On June 1, GNB guards arrested Eduard Rojas, director of the *Mérida Tremenda 105.7 FM* radio station, after he aired on his talkshow *La Prensa* the tape of an argument between two individuals and a soldier at a gas station in Merida. Rojas was allegedly detained without a court order and his relatives reported that he was beaten and transferred to Tovar municipality. He was released the night of June 4 (Espacio Público. June 2, 2020. [Funcionarios de la GNB detuvieron al director de Tremenda 105.7 FM](#); Espacio Público. June 5, 2020. [Liberan al locutor Eduard Rojas tras estar más de 48 horas detenido](#)).

²⁰⁴⁶ Alberto News. April 17, 2020. [Más de 48 horas detenido tiene el periodista Eduardo Galindo, quien fue en Apure por efectivos del Conas](#); Senderos de Apure. (n.d.) [APURE: Funcionarios del CONAS se llevaron al periodista Eduardo Galindo para declaraciones](#); Committee to Protect Journalists (CPJ). April 17, 2020. [Venezuelan journalist Eduardo Galindo and family members detained over reporting](#); Efecto Cocuyo. May 4, 2020. [Excarcelan a periodista Eduardo Galindo Peña en Apure](#); Espacio Público. May 6, 2020. [Excarcelan al periodista Eduardo Galindo tras permanecer 19 días detenido](#).

²⁰⁴⁷ Espacio Público. May 13, 2020. [Excarcelan a locutor detenido por denunciar irregularidades con la gasolina en Delta Amacuro](#).

²⁰⁴⁸ El País. September 1, 2020. [Nicolás Maduro otorga el indulto a más de 100 presos políticos y diputados perseguidos](#); Infobae. August 31, 2020. [El régimen de Nicolás Maduro anunció el indulto de decenas de dirigentes opositores apresados o exiliados](#); IPYS. September 7, 2020. [Trabajadores de la prensa entre las personas anunciadas por Jorge Rodríguez en el "indulto presidencial"](#).

²⁰⁴⁹ Espacio Público. September 1, 2020. [Detienen e intimidan a reportero gráfico de NTN24](#); IPYS. September 7, 2020. [Reportero gráfico fue detenido y su material borrado mientras cubría liberación de presos políticos](#).

detained and later released. According to the official record of the PNB, the doctor was detained for "incitement to hatred, resistance to authority, and insult against an official".²⁰⁵⁰ A day later the doctor was released, and a measure of protection was granted for him and his family. Likewise, the Prosecutor's Office requested an arrest warrant for the officials involved in the attack.²⁰⁵¹

1302. Likewise, according to available information, officials from the Aragua state Intelligence and Preventive Strategies Directorate (DIEP) detained Professor Fidel Martínez after he called his acquaintances to protest through WhatsApp and Facebook, with the message: "Bring your slogans and banners with your demands, no violence. Enough of the abuse and mockery by the authorities. It is now or never". The teacher was charged with the alleged crime of public instigation.²⁰⁵²

1303. According to the information provided to this Office, on November 18, officials from the General Directorate of Military Counterintelligence (Dgcm) detained the president of the Unitary Federation of Petroleum Workers of Venezuela (Futpv), Eudis Giroto, at his home in Puerto La Cruz, Anzoátegui state. He was reportedly charged with the alleged crimes of terrorism, conspiracy, disclosure of confidential information, and conspiracy. The trade unionist, known for his constant complaints about the conditions of the oil installations in the country, carries out a weekly update on the state of the refineries and disseminates information on the demands of oil workers for better wages.²⁰⁵³ On November 23, he was transferred to the Dgcm in Caracas, where was reportedly presented before the Third Special Court in Control Functions with crimes associated to Terrorism.²⁰⁵⁴

1304. On November 24, the First Control Court of San Carlos released Dr. Ligia Salcedo, who was detained for 24 hours allegedly for demanding fuel at the Los Pinos service station, in Tinaquillo, Cojedes state. She was accused of resisting authority and disturbing public order, her cell phone was seized, and she had to be put in a cast due to a knee injury caused by the blows she received during detention.²⁰⁵⁵

D. Stigmatizing statements

1305. This Office was informed that on May 4, during an address broadcasted by state channels, President Nicolás Maduro accused the human rights organization Provea of receiving funding from the US intelligence agency CIA and of defending the rights of "terrorists" and "mercenaries" that make up the security forces of President Donald Trump. Maduro referred to people who had been detained the day before for allegedly attempting an invasion of the country from Colombia, and regarding whom Provea, in a post on his Twitter, had requested that their rights be respected. The president of the National Constituent Assembly, Diosdado Cabello, endorsed Maduro's accusations and affirmed that the human rights organization was "justifying terrorism" and serving the interests of North American intelligence.²⁰⁵⁶

1306. According to the information available, the representative of the National Assembly for the Anzoátegui state, José Brito, would have called Roberto Deniz, journalist of the investigative medium *Armando Info*, a "criminal" and a "journalism dog", after he reported on his relationship and that of other representative with the Colombian businessman Alex Saab, who is being investigated for various acts of corruption and was arrested on June 12.²⁰⁵⁷

²⁰⁵⁰ Espacio Público. September 9, 2020. [PNB golpeó y detuvo a médico por reclamar corrupción en una cola de gasolina](#).

²⁰⁵¹ Espacio Público. September 10, 2020. [Liberan a médico que fue golpeado y detenido por protestar](#).

²⁰⁵² Extra Venezuela. September 30, 2020. [Detienen a profesor por llamar a manifestar en Aragua](#); Espacio Público. September 29, 2020. [Detienen a profesor por llamar a manifestar en Aragua](#).

²⁰⁵³ Tal Cual. November 19, 2020. [Funcionarios de la Dgcm detienen a sindicalista petrolero Eudis Giroto](#); Twitter account of PROVEA (@_Provea). [November 18, 2020](#); Espacio Público. November 19, 2020. [Funcionarios de la Dgcm detienen al sindicalista Eudis Giroto](#).

²⁰⁵⁴ El Nacional. November 23, 2020. [Trasladaron a Caracas al sindicalista Eudis Giroto](#).

²⁰⁵⁵ Costa del Sol FM. November 25, 2020. [Rechazan la detención de la doctora Ligia Salcedo por exigir gasolina en Cojedes](#); Efecto Cocuyo. November 24, 2020. [Detienen a doctora Ligia Salcedo en Cojedes por reclamar en cola por gasolina](#); Espacio Público. November 25, 2020. [Liberan a doctora que fue golpeada y detenida por exigir combustible](#).

²⁰⁵⁶ Human Rights Watch (HRW). May 8, 2020. [Venezuelan Human Rights Group Under Attack](#); El Nacional. May 5, 2020. [Nicolás Maduro acusó a la ONG Provea de ser financiada por la CIA](#).

²⁰⁵⁷ IPYS. June 22, 2020. [Periodista Roberto Deniz fue atacado nuevamente por diputado José Brito](#).

1307. On August 22, the governor of the state Delta Amacuro, Lizeta Hernández, described a publication by journalist José Gregorio Ruiz, from *El Periódico del Delta*, as an act “of gaffeity and Mongolism”, after he published images on his Facebook that showed the transfer of a dead body to the Tucupita morgue.²⁰⁵⁸

1308. Additionally, journalist and producer Luis Olavarrieta was the victim of two attacks by the *Lechuguinos* portal linked to the ruling party, on September 14 and 29. In the publications on social networks and on the website of the media, the communicator was signaled out for apparently breaking the law and calling for violence, after the publication of a tweet about the protests that took place in various regions of the country.²⁰⁵⁹

1309. The governor of Carabobo state, Rafael Lacava, published a tweet on October 17 in which he attacked and incited his supporters to initiate a persecution through online networks against the regional newspaper *Notitarde*, because he was upset with the headline of the newspaper.²⁰⁶⁰

E. Obstacles to journalistic work during the COVID-19 pandemic

1310. In the specific framework of the health emergency generated by the COVID-19 pandemic, the IACHR and its Office of the Special Rapporteur received information about a climate of harassment and detentions of journalists and citizens promoted by authorities and public officials to hinder journalistic work and freedom circulation of information regarding the impacts of the health crisis in the country and in different vulnerable groups.²⁰⁶¹

1311. For example, journalists in the state of Mérida warned of failures and deficiencies in basic services, limitations in circulation, cases of censorship, restrictions on access to local information on COVID-19, job insecurity and salary reductions, and impacts to the health of press workers²⁰⁶². At the beginning of April, the National Association of Journalists, Caracas section (CNP) tallied 34 journalists attacked by security officials during the first 15 days of quarantine.²⁰⁶³

1312. On the other hand, restrictions on the supply of gasoline have affected the circulation of various press media. The newspapers *La Prensa de Lara*, *La Calle* in Carabobo, *El Periódico de Monagas* and *Diario La Nación* in Táchira, plus the radio stations *Luz Radio* 102.9 FM in Zulia and *Frenesí* 107.9 FM in Carabobo, made the decision to stop the distribution of their main informative product after access to fuel was not guaranteed.²⁰⁶⁴ The lack of fuel also made it difficult for journalists to cover the situation on the streets.²⁰⁶⁵

1313. Since the Venezuelan government decreed the state of alarm and adopted various measures to prevent coronavirus infections, an increase in arbitrary detentions has been registered in the country, both of

²⁰⁵⁸ IPYS. August 31, 2020. [Gobernadora de Delta Amacuro arremetió contra reportero de El Periódico del Delta](#).

²⁰⁵⁹ IPYS. October 8, 2020. [Periodista Luis Olavarrieta fue atacado por el portal pro oficialista Lechuguinos](#); Twitter Account of Sindicato Nacional de Trabajadores de la Prensa (@sntpvenezuela). [September 29, 2020](#).

²⁰⁶⁰ Espacio Público. October 18, 2020. [Lacava amenazó al diario Notitarde por el titular de su portada](#); IPYS. October 22, 2020. [Gobernador de Carabobo incitó ataque contra diario Notitarde](#).

²⁰⁶¹ Freelance journalist Rayber Alvarado was assaulted by three civilians who tried to rob him while he was covering the quarantine relaxation measures in Caracas, on August 12. (Espacio Público. August 12, 2020. [Sujetos agreden al periodista Rayber Alvarado durante un recorrido en Caracas](#); IPYS. August 13, 2020. [Periodista independiente fue agredido durante intento de robo en Caracas](#)); Espacio Público. February 24, 2020. [Alcaldesa del municipio Mariño en Aragua hostigó a periodista de Crónica Uno](#); Espacio Público. March 9, 2020. [Gobernador del Zulia amenazó a médico por alertar sobre el coronavirus](#); Twitter account of CNP Caracas (@CNPCaracas). [March 25, 2020](#); El Estímulo March 25, 2020. [PNB detiene arbitrariamente al periodista Yarnaldo Tovar](#); IPYS. April 9, 2020. [Equipo de La Prensa del Táchira fue detenido por más de cuatro horas](#); Espacio Público. April 9, 2020. [GNB detiene a periodista de La Prensa de Táchira](#); IPYS. April 25, 2020. [Funcionarios públicos limitaron labor informativa de dos periodistas](#); Espacio Público. May 10, 2020. [Impiden el acceso a reportera de Primera Noticia al Hospital de Judibana](#); IPYS. May 12, 2020. [Alerta IPYSve Periodista fue impedida a ingresar a centro de salud en Falcón](#); The journalist was questioned and threatened and, after she deleted the photos, was allowed to leave. Espacio Público. May 24, 2020. [Personal de seguridad detiene a periodista Marialejandra Meléndez](#); Espacio Público. June 3, 2020. [GNB intimidó a reportera gráfica que cubría la militarización del HUM](#); The soldier threatened the journalists with checking their equipment and ordered them to enter a military facility for an interrogation that did not take place. Espacio Público. June 30, 2020. [Capitán del Ejército amenazó al equipo de VPI en Barquisimeto](#).

²⁰⁶² IPYS. May 7, 2020. [Mérida: obstáculos y limitaciones a la prensa durante la cuarentena por coronavirus](#).

²⁰⁶³ El Estímulo. April 3, 2020. [CNP denuncia agresiones a 34 periodistas](#).

²⁰⁶⁴ IPYS. March 28, 2020. [Cuarentena Social: falta de combustible limita labor informativa de medios regionales](#); La Prensa. March 23, 2020. [LA PRENSA HACE UNA PAUSA POR FALTA DE GASOLINA](#).

²⁰⁶⁵ On May 14, for example, a power failure in at least six of the country's states affected the *El Correo del Caroní* website's operations. Espacio Público. May 14, 2020. [Falla eléctrica afectó la operatividad de El Correo del Caroní](#); IPYS. April 3, 2020. [Periodistas en Carabobo dejaron de reportear desde las calles por falta de combustible](#).

journalists in the exercise of their informative work, as well as citizens or political opponents who questioned the state's response to the emergency or protested the shortage of goods such as fuel.²⁰⁶⁶ According to available information, dozens of journalists and media workers were detained and, in most cases, subsequently subjected to criminal proceedings. Several reporters were also temporarily detained and forced to erase the photographic or video material to regain their freedom.²⁰⁶⁷ Also, at least 26 people were detained for publications made on social networks and through the WhatsApp messaging application, according to a report by the Espacio Público organization.²⁰⁶⁸ Doctors, human rights defenders, and students, among others, have also suffered arrests and have received criminal charges for disseminating information and opinions about the difficulties in the supply of goods and other problems derived from the health situation.

1314. Likewise, according to publicly known information, sometimes press workers were detained for publishing information on the impact of the coronavirus in the country, and, in some cases, for disseminating data that differed from those officially reported.²⁰⁶⁹

1315. Communicator Jesús Hidalgo Rincón was detained by Conas officials at the Canal Sur TV facilities, in Santa Bárbara del Zulia, for criticizing the situation caused by the coronavirus, on April 23. He was released the next day.²⁰⁷⁰ The director and announcer of *Radio Criolla* 92.9 FM, José Galindo, was detained by Conas on May 12 in San Fernando de Apure. That station was closed by Conatel in 2019.²⁰⁷¹

1316. The journalist and coordinator of the *800Noticias* digital portal, Luisa Mimi Arriaga, was detained on June 18 by officials of the Scientific, Penal, and Criminal Investigations Corps (CICPC) at her residence in El Hatillo, Miranda state.²⁰⁷² On June 20, journalist Marco Antoima was detained, in the framework of the same investigation, for the alleged handling of anonymous accounts on social networks from which hatred would be instigated. On June 22, they were presented before the 47th Court of Control of the Metropolitan Area of Caracas, where they were accused of crimes under the "law against hatred", and were ordered to be under house arrest, prohibition of leaving the country, and prohibition of disclosing in the media a speech that incites hatred or disrespects.²⁰⁷³

1317. Carolina Villanueva, a reporter for the digital media *Noticias 24 Mundo*, was detained on July 6 for more than three hours when she was traveling on public transportation. Zamora municipality police officers

²⁰⁶⁶ On August 8, a Guardia Nacional Bolivariana (GNB) guard seized his phone, beat and detained a citizen who filmed him when he was collecting identity cards from customers who were waiting to refuel at a gas station in Catia, Caracas. Espacio Público. August 8, 2020. [GNB golpea y detiene a un ciudadano por grabar en una estación de servicio](#). On August 30, Regional Police (PoliBarinas) agents arrested four people who demanded the provision of gasoline at a station in the state of Barinas. Espacio Público. September 2, 2020. [Detuvieron a cuatro personas por protestar por gasolina en Barinas](#). Bolivarian National Police agents attacked several people who, after several days of waiting, were protesting for fuel at a gas station in the Tinaco municipality, Cojedes state. Two people were arrested for "disturbance of public order" and "obstruction of the public thoroughfare" (Espacio Público. August 30, 2020. [Funcionarios de la PNB agreden y detienen a ciudadanos por protestar](#)). On September 3, a GNB guard detained an individual for two hours for complaining at a gas station in Santa Teresa del Tuy, Miranda state. (Espacio Público. September 3, 2020. [Detienen a ciudadano por reclamar en estación de servicio](#)).

²⁰⁶⁷ Efecto Cocuyo. April 16, 2020. [14 trabajadores de la prensa detenidos en primer mes de cuarentena, dice Ipsy-Venezuela](#); IPYS. April 25, 2020. [Prevalecen ataques a periodistas y medios durante la cuarentena](#); Espacio Público. July 3, 2020. [Junio: las detenciones elevaron la curva](#).

²⁰⁶⁸ El Impulso. June 11, 2020. [ONG Espacio Público registra 26 detenciones por "mensajes de odio" durante la cuarentena](#).

²⁰⁶⁹ Committee to Protect Journalists (CPJ). March 18, 2020. [Venezuelan authorities arrest, threaten journalists reporting on COVID-19](#); IPYS. March 16, 2020. [COVID-19: La información no es el virus](#); Tal Cual. April 16, 2020. [Excarcelado periodista Arnaldo Sumoza tras 24 horas de detención por grabar protesta](#); Committee to Protect Journalists (CPJ). March 22, 2020. [Venezuelan journalist arrested by special forces following coronavirus coverage](#); Twitter account of SNTP (@sntpvenezuela). [March 22, 2020](#); Espacio Público. March 24, 2020. [Imputaron al periodista Darvinson Rojas por delitos de la «ley» del odio](#); El Nacional. April 2, 2020. [Liberan a periodista Darvinson Rojas tras 12 días detenido](#); Efecto Cocuyo. [Excarcelan a periodista Darvinson Rojas después de 13 días de prisión](#); IPYS. April 3, 2020. [Detenciones arbitrarias caracterizaron la segunda semana de cuarentena](#); Infobae. March 24, 2020. [El régimen chavista detuvo a una periodista por informar sobre un nuevo caso de coronavirus en Venezuela](#); Tal Cual. March 24, 2020. [Detienen a directora de La Verdad de Vargas por publicar información de casos de covid-19](#); Twitter account of SNTP (@sntpvenezuela). [March 24, 2020](#).

²⁰⁷⁰ Espacio Público. April 24, 2020. [Detienen a locutor por criticar la situación derivada por el Coronavirus](#).

²⁰⁷¹ Espacio Público. May 15, de 2020. [Funcionarios del Conas detuvieron al locutor José Galindo](#).

²⁰⁷² On July 7, Cicpc agents once again arrested Arriaga, who was under home arrest, because the police system still had an arrest warrant for the journalist. Arriaga was transferred to Cicpc offices in Parque Carabobo, and remained there until the arrival of her lawyers with the precautionary measure that ordered her to be detained at home. Espacio Público. July 8, 2020. [Cicpc detuvo nuevamente a la periodista Mimi Arriaga](#).

²⁰⁷³ Espacio Público. June 20, 2020. [Funcionarios del Cicpc detuvieron a la periodista Mimi Arriaga](#); IPYS. June 22, 2020. [Dos periodistas fueron detenidos en menos de 40 horas en Caracas](#).

took her identity card and forced her to get out of the vehicle, claiming that the press workers were not part of the priority employees who had permission to circulate.²⁰⁷⁴

1318. On July 13, officials from the DGCIM and the CICPC raided the residence and arrested Nícmer Evans, political scientist, journalist, and opposition politician. In addition, they held his family for several hours. On July 17, the 21st Court of First Instance of the Metropolitan Area of Caracas mandate pre-trial detention for alleged "incitement to hatred." Evans, director of the news portal *Punto de Corte*, was allegedly accused of having made a comment on Twitter about some Chavista politicians infected with COVID-19.²⁰⁷⁵

1319. The photography coordinator of the *Crónica Uno* portal, Gleybert Asencio, was detained along with two other media workers by GNB and PNB officials while they were covering the Hotel La Palmera in Los Caobos, Caracas, on July 15, about complaints from neighbors on social networks who claimed that COVID-19 patients were staying at the hotel. The team was detained for more than two hours for allegedly not having "authorization" to carry out this coverage, and they were threatened with imprisonment if the situation happened again.²⁰⁷⁶ On July 31, members of the DGCIM arrested *Correo del Caroní* photojournalist William Urdaneta while he was taking photographs of the traffic on an avenue in Ciudad Guayana, Bolívar state, to document the effects of the radicalization of the quarantine. An hour later he was released, without his phone and his camera memory, which were seized by officials.²⁰⁷⁷

1320. In addition to the journalists detained while doing their work, dozens of people have been detained for expressing criticism or making complaints on social networks linked to the government's management of the health crisis.²⁰⁷⁸

1321. The IACHR and its Office of the Special Rapporteur observed that health personnel also faced arbitrary detentions for questioning the situation of the health system or criticizing the authorities. According to figures from the United Doctors of Venezuela, at least 12 doctors and nurses were detained for making public comments about the coronavirus.²⁰⁷⁹

1322. On April 6, PNB officials arrested the coordinator of the NGO Redes Ayuda, Luis Serrano, when he was receiving medical supplies at his residence in the San Bernardino urbanization, Caracas. Serrano pointed out that together with the organization they were donating material such as masks, gloves, and antibacterial gel for social communicators who must carry out their work during the coronavirus pandemic²⁰⁸⁰. On June 24 in Barquisimeto, Lara state, lawyer Eva Leal was arbitrarily attacked, detained, and transferred to a GNB

²⁰⁷⁴ IPYS. July 7, 2020. [Dos periodistas detenidas en menos de 48 horas en Caracas y Miranda](#); Espacio Público. July 4, 2020. [Privan de libertad a productora por grabar la detención de un chef](#).

²⁰⁷⁵ Punto de Corte. July 17, 2020. [#Ahora | Tribunal del régimen dictó privación preventiva de libertad contra Nicmer Evans por "instigación al odio"](#); El País. July 13, 2020. [Detenido el activista opositor venezolano Nícmer Evans](#); El Nacional. July 13, 2020. [Nicmer Evans anunció la liberación de su esposa](#); Committee to Protect Journalists (CPJ). July 21, 2020. [Venezuelan authorities charge 2 journalists, imprison 1, under 'anti-hate' law](#).

²⁰⁷⁶ IPYS. July 16, 2020. [Equipo reportero de Crónica Uno fue detenido por más de dos horas en Caracas](#); Twitter account of SNTP (@sntpvenezuela). [July 15, 2020](#).

²⁰⁷⁷ Twitter Account of Correo del Caroní (@correodelcaroni). [July 31, 2020](#).

²⁰⁷⁸ Reuters. March 25, 2020. [As coronavirus hits Venezuela, Maduro further quashes dissent](#); Espacio Público. April 21, 2020. [Detienen a abogado en Yaracuy por opinar en las redes sociales](#); Así es Margarita. April 28, 2020. [Dictan privativa de libertad al profesor Fernando Marciano tras quejas en RRSS sobre el país](#); El Nacional. April 28, 2020. [Profesor universitario criticó al régimen en sus redes sociales y fue detenido por el Conas](#); Espacio Público. May 10, 2020. [GNB detiene a ciudadano por expresarse en redes sociales](#); Espacio Público. June 4, 2020. [Detenido empleado de Insopesca por expresar inconformidad en el aumento de alimentos](#); Provea. May 23, 2020. [Provea exige la libertad inmediata del sindicalista Darío Salcedo](#); Espacio Público. July 4, 2020. [Excarcelan al trabajador de Insopesca tras casi dos meses detenido](#); Espacio Público. May 28, 2020. [Excarcelado joven con discapacidad cognitiva detenido por protestar en Barquisimeto](#); Reuters. March 25, 2020. [As coronavirus hits Venezuela, Maduro further quashes dissent](#); Committee to Protect Journalists (CPJ). March 18, 2020. [Venezuelan authorities arrest, threaten journalists reporting on COVID-19](#); Espacio Público. August 3, 2020. [Cicpc detiene a un ciudadano por grabar carro de bomberos empujado](#); Espacio Público. August 6, 2020. [Excarcelan al ciudadano Deivis Pacheco bajo régimen de presentación](#).

²⁰⁷⁹ The New York Times. August 19, 2020. [Venezuela Deploys Security Forces in Coronavirus Crackdown](#); France24. August 10, 2020. [Médicos y enfermeros en Venezuela son detenidos y amenazados tras protestar por falta de insumos](#); Twitter account of Javier Mayorca (@javiermayorca). [May 28, 2020](#); Efecto Cocuyo. May 27, 2020. [Detenida médico en Cabimas por publicar foto contra Maduro en sus redes sociales](#); IPYS. March 24, 2020. [Imputaron por incitación al odio a dirigente de salud en Monagas](#); Twitter account of Espacio Público (@espaciopublico). [March 22, 2020](#); Reuters. March 25, 2020. [As coronavirus hits Venezuela, Maduro further quashes dissent](#); Espacio Público. April 7, 2020. [Detienen a bioanalista por publicar posible caso de Coronavirus](#).

²⁰⁸⁰ Tal Cual. April 6, 2020. [PNB detuvo brevemente al coordinador de Redes Ayuda al recibir insumos para el covid-19](#); Espacio Público. April 7, 2020. [PNB detiene a coordinador de la ONG Redes Ayuda](#).

barracks. She received five stitches on her forehead for the wound sustained in the assault²⁰⁸¹. The following day she was presented before a military court and later released under precautionary measures of periodic presentation²⁰⁸². On June 25, DGCIM officials detained the director of Citizen Security of the Mayor's Office of El Hatillo, Javier Gorriño, and the director of the Municipal Police of El Hatillo, Sergio González. The detention occurred after Gorriño reported on Twitter that he had not been able to disperse a party -held in the Los Naranjas urbanization, in violation of the quarantine- due to the presence of the Presidential Military Guard [Casa Militar].²⁰⁸³

F. Social protest

1323. The situation of social, political, and economic crisis, exacerbated by the COVID-19 pandemic and the shortage of services and basic supplies, led to an increase in citizen protests throughout the country²⁰⁸⁴. The Venezuelan Observatory of Social Conflict (OVCS) documented 4,414 protests during the first half of 2020, which is equivalent to an average of 25 per day. According to the Observatory's survey, the state of Táchira ranked first with 488 protests, followed by Mérida with 454. Miranda (355), Distrito Capital (349) and Anzoátegui (304), followed the count of the main entities with the greatest conflict²⁰⁸⁵. The human rights organizations Foro Penal and Provea register at least 214 people detained and at least four deaths in the framework of the protests reported between January and September to demand the restitution of public services²⁰⁸⁶.

1324. In this context, the Office of the Special Rapporteur received information on the disproportionate use of force to suppress protests by police and military officials, and on various situations in which journalists and media workers were prevented from covering the demonstrations. According to the Venezuelan Observatory of Social Conflict, during the first semester of 2020, 221 protests were repressed by state security bodies and paramilitary groups, 129 people were arrested, another 62 injured, and two protesters were allegedly killed by the use of firearms by the GNB.²⁰⁸⁷

1325. Regarding the limitation of journalistic work in the framework of social protests, on March 12 the journalist Jonathan Useche of *La Prensa de Táchira* was intimidated by GNB officials, who seized his cell phone and erased the material he had recorded while he was in a protest over the lack of fuel on Antonio José de Sucre avenue.²⁰⁸⁸ GNB officials forced journalist Luis López, from the newspaper *La Verdad de Vargas*, to delete the material he recorded during a protest by doctors on Soublette avenue in La Guaira, Vargas state.²⁰⁸⁹ Journalist Carol Romero was detained by the GNB when she was covering a protest over the fuel shortage in Junquito²⁰⁹⁰, and on April 15, journalist Arnaldo Sumoza was arrested while covering a protest over a lack of water in Guárico state.²⁰⁹¹ The human rights defender and member of the NGO Movimiento Vinotinto, Henderson Maldonado, was detained after documenting on video a protest by kidney patients and health personnel in front of the police station 121 of the GNB in Barquisimeto, Lara state, demanding access to fuel.²⁰⁹² The journalists Ricardo Tarazona, from *Qué pasa en Venezuela*, Astrid Pérez Dudamell, from *Noticias Yaracuy*, Luis Rodríguez, from *El Impulso*, and Anthony Mujica from *Radio Hispana 89.5 FM*, were attacked with pepper spray by state police officers while covering the protests that took place on September 26 in the

²⁰⁸¹ Efecto Cocuyo. June 24, 2020. [Abogada Eva Leal permanece detenida en la GNB en Barquisimeto](#); El Carabobeño. June 24, 2020. [La abogada Eva Leal agredida por la GNB será juzgada por un tribunal militar](#).

²⁰⁸² NTN24. June 25, 2020. [Excarcelan a la abogada Eva Leal tras ser presentada ante un tribunal militar](#)

²⁰⁸³ Espacio Público. June 25, 2020. [Dgcim detuvo al director de Seguridad de El Hatillo tras publicar que Maduro estaba en una fiesta](#); Tal Cual. June 25, 2020. [Detenido director de Seguridad Ciudadana de El Hatillo tras alertar sobre 'coronafiesta'](#).

²⁰⁸⁴ El Diario. September 23, 2020. [Protestas en pleno apogeo por falla en los servicios básicos venezolanos](#).

²⁰⁸⁵ Observatorio Venezolano de Conflictividad Social. July 17, 2020. [Conflictividad Social en Venezuela durante el primer semestre 2020](#); Observatorio Venezolano de Conflictividad Social. [Conflictividad social](#). July 2020.

²⁰⁸⁶ Efecto Cocuyo. September 26, 2020. [Al menos cuatro personas muertas y 214 detenidas durante protestas en lo que va de 2020](#).

²⁰⁸⁷ Observatorio Venezolano de Conflictividad Social. July 17, 2020. [Conflictividad Social en Venezuela durante el primer semestre 2020](#); Observatorio Venezolano de Conflictividad Social. [Conflictividad social](#). July 2020.

²⁰⁸⁸ IPYS. March 26, 2020. [Dos reporteros en Táchira fueron atacados por las fuerzas públicas](#).

²⁰⁸⁹ Espacio Público. May 13, 2020. [GNB obligó a periodista a borrar material de una protesta de médicos en Vargas](#); IPYS. May 16, 2020. [Periodista fue coaccionado a borrar material informativo en La Guaira](#).

²⁰⁹⁰ Twitter account of Espacio Público (@espaciopublico). [June 5, 2020](#); Espacio Público. June 5, 2020. [Excarcelan a Carol Romero tras permanecer más de 30 horas detenida](#); Committee to Protect Journalists (CPJ). June 11, 2020. [Venezuelan journalist Carol Romero arrested while reporting on gasoline protests](#).

²⁰⁹¹ Tal Cual. April 16, 2020. [Excarcelado periodista Arnaldo Sumoza tras 24 horas de detención por grabar protesta](#).

²⁰⁹² Runrunes. April 1, 2020. [Henderson Maldonado, detenido por acompañar y documentar una protesta](#).

municipality of Independencia, Yaracuy state.²⁰⁹³ GNB officials persecuted Lucelys Rodríguez, correspondent for the digital portal *Todos Ahora* in Anzoátegui state, on October 8, after she covered a protest for fuel on the Intercommunal Avenue in the Diego Bautista Urbaneja municipality. The reporter entered a business premises to protect herself and left the place once the troops had left.²⁰⁹⁴ Other cases also followed the same pattern.²⁰⁹⁵

1326. Between August and September, protests intensified in different states of Venezuela, motivated by the economic crisis and the scarcity of resources and services affecting the country. According to the information received, some of the demonstrations were suppressed with excessive use of force by state security agents.²⁰⁹⁶

G. Subsequent liabilities

1327. Roland Carreño, journalist coordinator of Popular Will (VP), the opposition party of Leopoldo López, was arrested by members of the Bolivarian National Police on October 26. The Fourth State Court of First Instance in Control Functions with National Jurisdiction and competence in cases related to Crimes Associated with Terrorism, charged him with the alleged crimes of Conspiracy, Illicit trafficking in weapons of war and ammunition, and Financing of Terrorism. As reported on Twitter by the attorney general, Tarek William Saab, "in a preliminary manner", the investigations indicate that Carreño allegedly gave "weapons of war and cash to certain subjects to promote violent actions in the national territory." Additionally, he is accused of coordinating "the financing of the logistics used in Leopoldo López's escape plan from the Spanish embassy in Venezuela." Multiple organizations that defend human rights and politicians opposed to the government of Nicolás Maduro have denounced the arrest as irregular and motivated by Carreño's political activity. The journalist spent more than 24 hours without having contact with lawyers or relatives, and no one knew his whereabouts until the authorities reported his arrest.²⁰⁹⁷

²⁰⁹³ Espacio Público. September 16, 2020. [Efectivos de seguridad agreden a la prensa en Yaracuy](#).

²⁰⁹⁴ IPYS. October 8, 2020. [Efectivos de la GNB persiguieron a la corresponsal de Todos Ahora en Anzoátegui](#).

²⁰⁹⁵ GNB forces prevented the work of reporters Virginia Serrano, from newspaper *El Tigrense*, and Shiley Gómez, from *Radio Fe y Alegría*, while they were covering a protest in El Tigre, Anzoátegui state, on June 5 (IPYS. June 10, 2020. [Efectivos militares impidieron labor de periodistas en El Tigre](#)). PNB agents prevented several journalists from Maracay, Aragua state, from covering a demonstration of pensioners and retirees in the city's Bicentennial Square, on July 23. (IPYS. July 27, 2020. [PNB impide a periodistas cubrir protesta de pensionados y jubilados en Maracay](#)). An GNB member intimidated journalist Mariangel Moro and cameraman Jesús Fonseca, from *Venezolanos por la Información (VPITV)*, when they were covering a protest in Acarigua, Portuguesa state, on September 28. The guard filmed the journalistic team while it was working and also individuals who were being interviewed about the fuel shortage in the region. (Espacio Público. September 30, 2020. [Funcionario de la GNB intimidó al equipo de VPITV en Portuguesa](#)). On October 10, photojournalist Elena Fernández was detained by Carabobo Police agents when she was covering a demonstration of cyclists in the state. (Twitter account of Venezolana de Prensa (@VENPRENSA) [October 10, 2020](#); IPYS. October 16, 2020. [Detenida fotógrafa en manifestación de ciclistas carabobeños](#)). A GNB guard filmed and followed journalists from *Venezolanos por la Información (VPITV)*, *Caraota Digital* and *Voces de la Ciudad FM*, while they were covering a protest in Bolívar Square on October 13 (Espacio Público. October 14, 2020. [Funcionario de la GNB intimidó a periodistas durante protesta en Mérida](#)).

²⁰⁹⁶ Previously, on May 18, agents from the Directorate of Intelligence and Preventive Strategies (Dirección de Inteligencia y Estrategias Preventivas, DIEP) detained two people in the middle of a protest against the shortage of water and gas and power failures, in Barquisimeto, Lara state. Humberto Eduardo Moreno and José Gregorio Hernández were charged with resistance to authority (Espacio Público. May 20, 2020. [Detienen a dos ciudadanos por protestar en Barquisimeto](#)).

Other relevant cases registered by the Office of the Special Rapporteur: El Pitazo. August 17, 2020. [Privados de libertad los seis detenidos en protestas para exigir gasolina en Margarita](#); El Nacional. August 17, 2020. [Detuvieron a seis personas en Margarita por protestar por la falta de gasolina](#); Espacio Público. August 16, 2020. [Dictan privativa de libertad a seis personas por protestar en Nueva Esparta](#); Espacio Público. August 27, 2020. [Excrcelaran a 13 personas que protestaron por falta de combustible](#); Tal Cual. September 16, 2020. [Más de 10 personas detenidas dejó segunda noche de protestas en Zulia](#); Espacio Público. September 16, 2020. [GNB detuvo a 12 personas que exigían energía eléctrica en el Zulia](#); Espacio Público. September 24, 2020. [Detuvieron a ocho personas tras protestar por las fallas en los servicios públicos en Yaracuy](#); Tal Cual. September 26, 2020. [Jornada de protestas en Yaracuy culmina con represión y al menos 31 arrestos](#); El Diario. September 26, 2020. [Yaracuy, foco de protestas por descontento social y represión desmedida](#); Infobae. September 26, 2020. [Cuarto día de protestas y represión en el estado venezolano de Yaracuy: un alcalde chavista amenazó con "marcar a la gente" que salga a las calles](#); El Sol de Margarita. September 28, 2020. [Manifestaciones por gasolina dejan a 23 personas detenidas en Nueva Esparta](#); Espacio Público. September 29, 2020. [Más de 20 personas fueron detenidas en Nueva Esparta durante las protestas](#); Aporrea. October 5, 2020. [Alcalde de Caripito rechaza protesta de educadores: "El que no está con el Gobierno que renuncie"](#); Espacio Público. October 4, 2020. [Alcalde Carlos Rojas amenaza a los docentes si protestan](#); Twitter account of José Luis Pirela (@joseluispirelar). [October 19, 2020](#); Colegio Nacional de Periodistas de Venezuela. October 26, 2020. [Excrcelaran a tres ciudadanos que habían sido detenidos por protestar](#).

²⁰⁹⁷ DW. October 28, 2020. [Gobierno de Venezuela confirma detención de Roland Carreño](#); Twitter account of SNTTP (@sntpvenezuela). [October 28, 2020](#); Panorama. October 27, 2020. [Oposición denuncia el arresto del periodista Roland Carreño](#).

1328. In addition, according to the information received, on November 23 the economist and former leader of the Primero Venezuela political party in Puerto Ayacucho, Romel Despas, filed a complaint with the Prosecutor's Office against the announcers Kisme Evaristo and Ana Muñoz, from *Balance Informativo* and *El Radar Informativo*, broadcasted by the stations *Autana 90.9 FM* and *Raudal Stéreo 92.9 FM*, in Puerto Ayacucho, Amazonas state, for the alleged crime of defamation and insult. The reporters were denounced after they reported on their radio programs about the reasons for Despas's expulsion from his party. Both communicators made reference to an act of the party that was publicly disclosed, in which it was mentioned that the expulsion of the economist was due to mismanagement of money, which would have revealed "an embezzlement of funds and diversion of logistics".²⁰⁹⁸

H. Censorship

1329. According to the survey of social organizations, between January and August 2020, approximately 11 stations were closed by Conatel. For example, agency officials took off the air the *Kariñosa 106.1 FM* radio station, located in the Guanipa municipality of Anzoátegui state, on April 7²⁰⁹⁹. On May 15, Conatel ordered the closure of the *Rumbera 106.9 FM* station in Los Valles del Tuy, Miranda state. For the president of the radio Eliú Ramos Ortega, it was a retaliation for the diversity of ideas and opinions that they spread, since the station had all its documents up to date²¹⁰⁰. On July 31, the station *Pura Candela 93.3 FM*, based in Carúpano, Sucre state, was closed. Officials of the state entity went to the radio station accompanied by members of the National Guard, drew up a record, and seized all the electronic equipment. The closure came two weeks after a radio journalist, Otilio Rodríguez, was arrested for posting complaints about the illegal sale of gasoline on the station's social networks.²¹⁰¹

1330. Conatel took the portal of the Portuguesa newspaper *Última Hora* off the web on May 14. Miguel Villavicencio, director of the media, denounced that Conatel suspended the storage and domain provider of the newspaper's website, alleging non-compliance with the rate increase, without being allowed to catch up.²¹⁰²

1331. The information program "De Frente", broadcasted by *Roscio TV*, was taken off the air on May 15. According to his host, the journalist Víctor Hugo Donaire, the director of the channel told him that the decision to take his program off the air responded to alleged pressure from the Guárico state government.²¹⁰³ The opinion program of the journalist Vladimir Villegas, *Vladimir a la 1*, broadcasted by the *Globovisión* news channel, was taken off the air on May 27. According to the journalist, the decision to terminate the program responded to pressure from the national government.²¹⁰⁴ The journalist Reyes Theis denounced that the website of the newspaper *El Nacional* censored an interview that he conducted with the former Minister of Petroleum and former President of Petróleos de Venezuela S.A (PDVSA), Rafael Ramírez. The interview was published on June 7 on the media's website, but hours later it was reportedly deleted.²¹⁰⁵

1332. Likewise, as the IACHR and its Office of the Special Rapporteur learned, the mayor of Barbacoas, Urdaneta municipality, Aragua state, Antonio Lugo, fired Ramón González, director of the *El Cantar Revolucionario 98.3 FM* radio station, and ordered the closure of the radio station. This occurred a day after the son of the radio director, seminarian Anthony González, denounced in a broadcast from the station the lack of ambulances in the municipality.²¹⁰⁶

²⁰⁹⁸ IPYS. November 26, 2020. [Dos locutores en Amazonas fueron denunciados ante el Ministerio Público](#); Espacio Público. November 24, 2020. [Dirigente político denunció a dos locutores por «difamación e injuria»](#); El Pitazo. November 26, 2020. [Dirigente político demanda a comunicadores de Amazonas por difamación e injuria](#).

²⁰⁹⁹ Espacio Público. April 8, 2020. [Conatel deja fuera del aire a Kariñosa 106.1 FM en Anzoátegui](#).

²¹⁰⁰ Espacio Público. May 15, 2020. [Conatel cerró la emisora Rumbera 106.9 FM en los Valles del Tuy](#).

²¹⁰¹ Colegio Nacional de Periodistas. August 3, 2020. [Conatel cierra la emisora Pura Candela 93.3 FM](#); Efecto Cocuyo. July 31, 2020. [Conatel cierra este #31Jul la emisora Pura Candela 93.3 de Carúpano](#).

²¹⁰² Espacio Público. May 20, 2020. [Conatel deja fuera del aire el portal Última Hora de Portuguesa](#).

²¹⁰³ Espacio Público. May 19, 2020. [Suspenden el programa "De Frente" transmitido por Roscio TV](#).

²¹⁰⁴ Twitter account of Vladimir a la Carta (@vladialacarta). [May 26, 2020](#); Espacio Público. May 26, 2020. [Vladimir a la 1 sale del aire por presiones del Gobierno de Maduro](#).

²¹⁰⁵ IPYS. June 15, 2020. [El Nacional Web removió entrevista a Rafael Ramírez](#); Twitter account of Reyes Theis (@reyestheis). [June 7, 2020](#); Twitter account of Sindicato Nacional de la Prensa (@sntpvenezuela). [June 7, 2020](#).

²¹⁰⁶ IPYS. October 22, 2020. [Alcalde de Aragua despidió a director de emisora y posteriormente ordenó su cierre](#); Crónica Uno. October 19, 2020. [Alcalde de Barbacoas cierra emisora de radio luego de denuncia por la falta de ambulancias en el municipio](#).

1333. On October 11, officials from the National Telecommunications Commission (Conatel) and the Military Counterintelligence Directorate seized and opened an administrative procedure against the *Médano* 95.5 FM station in the city of Coro, Falcón state, because it was allegedly operating clandestinely, for not showing the documentation indicating the provision of services as a radio operator. The owner of the radio, Fito Aref, indicated to the officials that the required documentation has been at Conatel's headquarters in Caracas for two years, waiting for the concession to be renewed, and described the event as "political harassment" because the station offers spaces to candidates opposed to Chavismo.²¹⁰⁷

1334. On October 26, the local channel *Telesol*, in Sucre state, suspended the talk show and community complaints *DNoticias*. According to the producer and moderator of the space, Miki González, the closure would have been due to alleged political pressure from the Sucre state government.²¹⁰⁸

I. Freedom of expression in electoral contexts

1335. The government led by Nicolás Maduro called elections to elect a new Parliament on Sunday, December 6. According to the information received, on election day there were limitations to journalistic work and freedom of expression. A survey carried out by the organization that defends freedom of expression, Espacio Público, tallied 15 cases in which the coverage by press workers was intimidated, harassed, censored, or prevented by security officials and the National Electoral Council (CNE), while the organization IPYS Venezuela counted 21 cases of violations to freedom of expression.²¹⁰⁹ Thus, for example, in Naguanagua, Carabobo state, the journalist Leomara Cárdenas, a correspondent for *Crónica Uno*, was verbally harassed near a polling station by an official who barred her from taking pictures and demanded that she hand over her cell phone. Another reporter from *Crónica Uno*, Omarela Depablos, was prevented from taking photographs by an official of the Bolivarian National Guard (GNB) while covering the vote at a center in Los Teques, Miranda state, and in Sucre state the journalist from the same outlet, Monica Salazar was verbally assaulted by a militiawoman. In Vargas state, Plan República officials prevented the *La Verdad Vargas* team from recording the arrival of candidate Lauren Caballero at the Marapa electoral center. The journalist from *RoscioTV* and *Notipascua*, Jairo Alcalá, was prevented from accessing a voting center in Guárico state. In the state of Táchira, journalists Rosalinda Hernández from the newspaper *El Estímulo*, Bleima Márquez, from the *La Nación Web* portal, and Judith Valderrama, from the *Diario los Andes*, were verbally intimidated by members of the Plan República. In Cumaná, Plan República officials prevented *Azulejos Digital* journalists Johan Ramírez, Bárbara López, and Miguel Brito from covering the arrival of candidate Goyo Noriega at the Francisco de Miranda voting center. In Lara state, CNE officials prohibited the *Notifalcón* press team from taking photographs in a polling place. The *Todos Ahora* reporter, Sydney Díaz, was forced by two GNB officers to erase the photographs she had taken during her coverage at a polling station in the Valencia municipality, Carabobo state. Officials from the Bolivarian National Intelligence Service (Sebin) detained and assaulted Antonio Betancourt, coordinator of the radio station *Sonora* 107.7 FM, when he was taking photographs at a voting center located in Acarigua, Portuguesa state. Likewise, journalistic teams from the media *El Pitazo*, *Crónica Uno*, *Todos Ahora*, *El Universal*, *Cima 360*, and *Noticias de Aquí* denounced that they were excluded from the fuel distribution schedule in the northern area of Anzoátegui, which made it difficult for them to move around during the election day coverage.²¹¹⁰

1336. On the other hand, the Internet Measurements Laboratory (MLAB) platform revealed that 10 states of the country present precariousness in Internet navigation, according to 64 tests carried out. Likewise, IPYS Venezuela found evidence of digital censorship from a series of measurements carried out under the methodology of the Open Observatory of Interferences in the Network (OONI), which, together with the National Network of Correspondents, executed 66 tests that demonstrated difficulties in accessing information of public interest in 21 national information portals, four foreigners, two institutions, and the

²¹⁰⁷ El Pitazo. October 14, 2020. [Guachimán Electoral / Conatel incauta equipos a emisoras que respaldan a disidentes del chavismo](#); Colegio Nacional de Periodistas. October 26, 2020. [Conatel incautó equipos de la emisora Médano 95.5 FM](#).

²¹⁰⁸ IPYS. November 5, 2020. [Cerraron programa televisivo de entrevistas y denuncias en Sucre](#).

²¹⁰⁹ Espacio Público. December 6, 2020. [Coyuntura 6D: restricciones a la prensa, desinformación para la gente](#); IPYS. December 20, 2020. [Balance #6D / Elecciones parlamentarias con cobertura restringida](#).

²¹¹⁰ Espacio Público. December 6, 2020. [Coyuntura 6D: restricciones a la prensa, desinformación para la gente](#); IPYS. December 20, 2020. [Balance #6D / Elecciones parlamentarias con cobertura restringida](#).

social networks Twitter, Instagram, and Facebook, from public and private providers Cantv, Movilnet, Digitel, and Movistar.²¹¹¹

J. Access to public information

1337. According to the report of various local organizations, since the COVID-19 pandemic reached Venezuela, official information on the impact of the disease, the number of infections, and the situation of the health system was scarce. For example, no details were reported on the assessment of potential COVID-19 cases or the status of diagnosed patients. Neither was specific and detailed information disseminated on the situation of the health centers to deal with the high number of patients. In addition, social organizations and the journalistic media faced enormous difficulties in accessing information related to the impact of the pandemic. According to the NGO Espacio Público, the circulation of unconfirmed and confusing information about the disease and its severity was accentuated in the Venezuelan case “by the threats and indirect restrictions imposed by the national government, which, far from dispelling rumors and generating certainties, increased uncertainty due to the little official information”.²¹¹²

1338. On October 8, the National Constituent Assembly of Venezuela approved the Anti-Blockade Constitutional Law, for National Development and the Guarantee of Human Rights, which aims to establish a special and temporary regulatory framework that provides the Executive Power with tools to “counter , mitigate, and reduce, in an effective, urgent and necessary manner, the harmful effects generated by the imposition, against the Bolivarian Republic of Venezuela and its population, of unilateral coercive measures and other restrictive or punitive measures”. To that end, the norm would grant a wide range of discretionary powers to the National Executive. Thus, for example, article 19 establishes that “when it is necessary to overcome the obstacles or compensate the damages” of the sanctions, the Executive will proceed to “not apply for specific cases those norms of legal or sublegal rank whose application is impossible or counterproductive”.²¹¹³

1339. The norm, in addition to granting broad powers to the government, eludes compliance with transparency as a principle of public management. Article 37 creates a “transitory regime for the classification of documents with confidential and secret content designed to protect and ensure the effectiveness of the decisions made by the Venezuelan Public Power.” Article 38 specifies that access to administrative files and records “may be exercised by individuals in such a way that the effectiveness of the measures to counteract the effects of unilateral coercive measures is not affected.” Article 39 establishes that “the highest authorities of the organs and entities of the National Public Administration (...) may grant a reserved, confidential, or limited disclosure status to any file, document, information, fact, or circumstance, which they are aware of in compliance with their functions”, in order to “counteract the adverse effects of unilateral coercive measures”. Article 42 declares “secret and reserved the procedures, acts and records carried out on the occasion of the implementation of any of the measures established in the second chapter of this Constitutional Law, which imply the non-application of rules of legal or sublegal rank, up to 90 days after the cessation of unilateral coercive measures and other restrictive or punitive measures that have led to the situation”.²¹¹⁴

K. Internet and freedom of expression

1340. Several sites linked to response actions, support, and information on the coronavirus pandemic -such as the Héroes de la Salud platform, created by Juan Guaidó's administration to provide monthly financial assistance to health personnel- suffered frequent attacks and blockades that made it difficult for users of the

²¹¹¹ IPYS. December 20, 2020. [Balance #6D | Elecciones parlamentarias con cobertura restringida.](#)

²¹¹² Espacio Público. March 20, 2020. [Coronavirus en Venezuela: más preguntas que respuestas.](#)

²¹¹³ Asamblea Nacional Constituyente. Ley Constitucional Antibloqueo para el Desarrollo Nacional y la Garantía de los Derechos Humanos. October 12, 2020. Available at: <https://www.finanzasdigital.com/2020/10/gaceta-oficial-extraordinaria-n-6-583-ley-constitucional-antibloqueo-para-el-desarrollo-nacional/>; BBC. October 9, 2020. [Aprueban en Venezuela la "Ley Antibloqueo" con la que Maduro tendrá plenos poderes para firmar nuevos negocios petroleros](#); DW. October 9, 2020. [Venezuela aprueba "ley antibloqueo" para proteger al gobierno de Maduro.](#)

²¹¹⁴ Espacio Público. October 20, 2020. ["Ley antibloqueo": la imposición del secreto](#); Acceso a la Justicia. November 1, 2020. [Ley Constitucional Antibloqueo para el Desarrollo Nacional y la Garantía de los Derechos Humanos](#); Efecto Cocuyo. October 9, 2020. [Los 12 puntos más destacables de la Ley Antibloqueo de Maduro.](#)

state provider Compañía Anónima Nacional Telefonos Venezuela (CANTV) to access it.²¹¹⁵ Similar attacks were suffered by numerous media outlets on their digital platforms.²¹¹⁶ On April 1, the page of the Venezuelan Observatory of Justice was suspended for alleged complaints against its content.²¹¹⁷ On April 22, the website of the National Assembly (AN) was blocked by CANTV after publishing information on the situation of COVID-19 in Venezuela. It was the third blockage that the AN page suffered in the context of the pandemic.²¹¹⁸ On May 7, Twitter users reported the total drop in the telephone service of the state telecommunications company Movilnet throughout the national territory.²¹¹⁹ The state company CANTV and the company Inter blocked access to the information portal *Runrun.es*, on May 15. The Internet Observatory Ve Sin Filtro warned about the blockade, stating that it was a restriction of the domain name system (DNS).²¹²⁰ The website of the NGO Caracas Mi Convive and that of its coordinator, Roberto Patiño, were blocked by the main Internet providers in Venezuela on May 18.²¹²¹ On May 31, access restrictions were registered to the YouTube and Instagram platforms, when an extraordinary session of the Legislative Power was held online. The DNS blocking, reported by Ve Sin Filtro and Netblocks, and corroborated by IPYS Venezuela, lasted for more than one hour, which restricted users who were connected through the CANTV Internet service.²¹²² Said Internet service provider blocked the YouTube and Periscope platforms while the “Transition in Venezuela is Possible” forum was being held, an event promoted by the Guaidó administration.²¹²³ The telephone company Movistar applied a DNS blockade to the alternative web domain of the news portal *albertonews.com*, on July 1. The main domain of the portal was blocked by the main Internet providers on April 1.²¹²⁴ The portal of the digital media *El Diario* suffered a DDoS attack that lasted for approximately 10 hours on July 26.²¹²⁵ The digital media portal *Efecto Cocuyo* was the victim of a blockade applied by the state Internet providers CANTV and Movilnet, on October 3. The journalistic portal has been subject to blockades on repeated occasions since the quarantine due to the pandemic began.²¹²⁶

1341. The Internet observatory VeSinFiltro reported that on October 10 and 11, Compañía Anónima Nacional Telefonos de Venezuela (CANTV) reactivated the blockade of 30 web pages that had stopped working for most of the country after the fire at the company's facilities in Chacao. According to VeSinFiltro, the blockade mostly affected the media, including *Efecto Cocuyo*, *Aporrea*, *El Universal*, *Armando.info*, *Caraota Digital*, *El Nacional*, *La Patilla*, *Diario 2001*, and *Globovisión*. The portal of the communications area of the National Assembly chaired by Juan Guaidó was also blocked.²¹²⁷

L. Other relevant situations

1342. On September 7, the Special Actions Forces (FAES) raided the headquarters of the NGO Acción Solidaria and detained eight members of its Humanitarian Action Program for allegedly "selling expired medicines." "A group of members of the FAES broke into the headquarters of Acción Solidaria in a procedure of which we have no information or knowledge about their motives or purposes," reported Feliciano Reyna, representative of the NGO and human rights defender, on his networks social. The eight detainees were released.²¹²⁸

²¹¹⁵ Twitter account of VE sin Filtro (@vesinfiltro). [April 28, 2020](#); Ve Sin Filtro. April 27, 2020. [Informe Preliminar: Phishing del gobierno de Maduro contra plataforma Héroes de la Salud](#); Espacio Público. April 16, 2020. [Cantv y Movistar bloquean la web del programa Teleconsultas](#).

²¹¹⁶ El Pitazo. August 15, 2020. [Medios de comunicación surfean la ola de bloqueos digitales](#).

²¹¹⁷ Twitter Account of Acceso a la Justicia (@AccesoJusticia). [April 1, 2020](#).

²¹¹⁸ Espacio Público. April 23, 2020. [Cantv vuelve a bloquear el portal web de la AN sobre el Coronavirus](#).

²¹¹⁹ El Nacional. May 7, 2020. [Reportan caída de la señal de Movilnet en toda Venezuela: "Terminó de morir"](#).

²¹²⁰ Espacio Público. May 18, 2020. [Cantv e Inter bloquean el acceso al portal de noticias Runrun.es](#).

²¹²¹ Espacio Público. May 19, 2020. [Bloquean la web de la ONG Caracas Mi Convive](#).

²¹²² IPYS. June 4, 2020. [Prevalecen violaciones a los derechos digitales en medio de la pandemia](#).

²¹²³ IPYS. June 19, 2020. [Cantv bloqueó Youtube y Periscope en medio de evento de Juan Guaidó](#).

²¹²⁴ Espacio Público. July 1, 2020. [Movistar bloqueó el dominio alternativo del portal AlbertoNews](#).

²¹²⁵ Twitter Account of El Diario (@eldiario). [July 26, 2020](#); IPYS. July 27, 2020. [Portal de El Diario sufrió ataque DDoS](#).

²¹²⁶ IPYS. October 7, 2020. [Cantv y Movilnet aplicaron bloqueo HTTP a Efecto Cocuyo](#).

²¹²⁷ VESINFILTRO. October 12, 2020. [30 nuevos eventos de bloqueo: CANTV reactiva bloqueos HTTP](#); Espacio Público. October 15, 2020. [VeSinFiltro denunció la reactivación del bloqueo a 30 sitios web](#).

²¹²⁸ El Pitazo. September 7, 2020. [Faes liberan a detenidos de Acción Solidaria este #7Sep](#); Infobae. September 7, 2020. [Las FAES del régimen chavista allanaron la sede de la ONG venezolana Acción Solidaria y secuestraron a seis de sus miembros](#); Espacio Público. September 9, 2020. [FAES detuvo a miembros del equipo de Acción Solidaria](#).

1343. The IACHR and its Office of the Special Rapporteur were also informed that on October 12, officials from the Bolivarian National Intelligence Service (Sebin) raided the house of the director of the newspaper *Correo del Caroní*, David Natera Febres, who was detained and interrogated at the Sebin headquarters in San Félix. The search warrant was issued by the Special Court of First Instance in control functions with competence in crimes associated with terrorism, under Judge Carol Padilla, although the police officers did not explain the reasons for the measure.²¹²⁹ On October 14, Sebin officials raided the offices of digital media *15 Minutos*, in Caracas, under an order issued by Judge Padilla. Officials seized the computers, work equipment, and closed the office. Through its social networks, the digital media indicated that it does not know the reasons for the procedure. David Natera, owner of *15 Minutos*, is the son of the owner of *Correo del Caroní*, who was arrested on October 12.²¹³⁰ On October 20, Sebin raided the headquarters of the *Correo del Caroní*, in Puerto Ordaz, Bolívar state. The editor of the newspaper, Clavel Rangel, denounced that it was an "arbitrary, illegal, and unfair action against freedom of the press and expression." The reasons for this operation were also not disclosed. The National Union of Workers of the Press, Espacio Público, IPYS, Provea, and other human rights organizations denounced these actions as attacks on freedom of expression and the journalistic work of one of the main media outlets in Bolívar state. They also warned that the reasons for both raids are not known.²¹³¹

1344. On November 11, officials from the Bolivarian National Intelligence Service (Sebin) entered the newsroom of the *Venepress* media, whose headquarters in Caracas was closed in December 2019, and took all their work equipment, including computers, televisions, and professional cameras. The media's lawyers assured that the operation did not have a court order.²¹³² As the chief editor of *Venepress*, Israel Barbuzano, explained to the EFE agency, despite the fact that one year has elapsed since the start of the investigations against the media, the reasons are still unknown. The media presumes that it is a retaliation from the authorities because they link the media with the opposition leader Juan Guaidó.²¹³³

1345. According to the information registered in 2020, this Office of the Special Rapporteur calls on the State of Venezuela to specially note that:

1346. **The murder of journalists constitutes the most extreme form of censorship, and impunity contributes to the self-censorship of the press.** States have a positive obligation to identify and punish the perpetrators of these crimes. As the IACHR and its Office of the Special Rapporteur have repeatedly stated, it is essential that the State fully, effectively, and impartially investigate the murders of journalists, clarify their motives, and judicially determine the relationship they may have to journalistic activity and freedom of expression. Authorities should not rule out the practice of journalism as a motive for the murder and/or assault before the investigation is completed. The omission of logical lines of investigation or the lack of diligence in the collection of evidence in this regard can have serious repercussions on the development of the processes in the stages of accusation or trial.²¹³⁴

1347. **Attacks and aggressions committed against journalists and against the press violate the right to freedom of expression both in its individual and collective dimensions and cannot be tolerated in a democratic society.** Principle 9 of the Declaration of Principles on Freedom of Expression of the IACHR states that "[t]he murder, kidnapping, intimidation of, and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of States to prevent and investigate such occurrences, to punish their perpetrators, and to ensure that victims receive due compensation." This last obligation includes the duty to investigate, prosecute, and criminally convict all those responsible for these crimes and make

²¹²⁹ Efecto Cocuyo. October 20, 2020. [Sebin allana vivienda de director del Correo del Caroní #120ct](#).

²¹³⁰ 15 minutos. October 14, 2020. [Régimen de Maduro allana oficina de 15minutos.com en Venezuela](#); Efecto Cocuyo. October 14, 2020. [Sebin allana oficinas del portal 15minutos.com este #140ct](#).

²¹³¹ Efecto Cocuyo. October 20, 2020. [Sebin allana sede del Correo del Caroní este #200ct](#); Correo del Caroní. October 13, 2020. [Sebin allanó residencia y detuvo arbitrariamente a director del Correo del Caroní](#); Espacio Público. October 14, 2020. [SEBIN allanó vivienda de director del diario Correo del Caroní](#); Tal Cual. October 20, 2020. [Cuerpos de seguridad allanan sede del Correo del Caroní, en Bolívar](#).

²¹³² Twitter Account of Venepress (@venepress). [November 11, 2020](#).

²¹³³ La Vanguardia. November 11, 2020. [Autoridades venezolanas incautan los equipos de una agencia de noticias local](#).

²¹³⁴ IACHR. Office of the Special Rapporteur for Freedom of Expression. [Special Study on the Status of Investigations into the Murders of Journalists during the 1995-2005 Period for Reasons that may be Related to their Work in Journalism](#). OEA/Ser.L/V/II.131. Doc. 35, March 8, 2008, par. 116.

comprehensive reparations to the victims. These obligations complement each other to guarantee the existence of a free, robust, and unrestricted democratic debate.²¹³⁵

1348. Public authorities are called upon to maintain a speech favorable to public deliberation and freedom of expression. While it is legitimate for politicians and public officials to make criticisms, corrections, or objections regarding specific reports in the media, when they do so, they should always ensure that their comments are accurate, avoid stigmatization and discrediting of the media, and not threaten journalists or undermine respect for the independence of the media.²¹³⁶

1349. Social protest, which includes the rights to peaceful assembly without arms, association, and freedom of expression, is a fundamental tool in the defense of democracy and human rights. The Office of the Special Rapporteur reiterates that the criminalization *per se* of demonstrations in public streets when they are carried out within the framework of the right to freedom of expression and the right to assembly is in principle inadmissible.²¹³⁷ In this sense, it recalls that it is the duty of the State to guarantee the exercise of the right to protest and that no participant may be subjected to illegal or arbitrary detention. The States must refrain from engaging in practices of mass, collective, or indiscriminate detentions in public demonstrations. Likewise, they must especially bear in mind that freedom of expression protects the right to record and disseminate any incident, and that they must provide journalists with the highest degree of protection so that they can carry out their work freely and keep society informed about matters of high public interest.

1350. The inter-American human rights system explicitly prohibits prior censorship. This arises from Article 13.2 of the American Convention on Human Rights, and Principle 5 of the Declaration of Principles on Freedom of Expression, which establishes that “[p]rior censorship, direct or indirect interference in, or pressure exerted upon any expression, opinion, or information transmitted through any means of oral, written, artistic, visual, or electronic communication must be prohibited by law. Restrictions to the free circulation of ideas and opinions, as well as the arbitrary imposition of information, and the imposition of obstacles to the free flow of information violate the right to freedom of expression.”

1351. The use of criminal mechanisms to punish speech on matters of public interest, especially related to public officials, is incompatible with inter-American standards. The IACHR and its Office of the Special Rapporteur emphasize that under Article 13 of the American Convention, speeches on matters of public interest have enhanced protection, especially those that express essential elements to identity or denounce situations of violence and structural discrimination. Principle 11 of the Declaration of Principles on Freedom of Expression of the IACHR states that: “[p]ublic officials are subject to greater scrutiny by society. Laws that penalize offensive expressions directed at public officials [...] restrict freedom of expression and the right to information.” The use of criminal law as a mechanism to prosecute those who express opinions, information, or criticism of government authorities or policies, as well as on issues of public interest, generates a chilling effect that limits freedom of expression.

1352. Transparency and accountability of public powers strengthen democratic systems. Principle 4 of the IACHR Declaration of Principles on Freedom of Expression establishes that “[a]ccess to information held by the State is a fundamental right of every individual. States have the obligation to guarantee the full exercise of this right. This principle allows only exceptional limitations that must be previously established by law in case of a real and imminent danger that threatens national security in democratic societies.” In this regard, the IACHR Resolution on Pandemic and Human Rights²¹³⁸ highlighted the importance of access to information in the current context due to COVID-19 and the crucial role that journalists play in the framework of the public health emergency, by reporting on critical points and monitoring government actions. Likewise,

²¹³⁵ ²¹³⁵ IACHR. Office of the Special Rapporteur for Freedom of Expression. [Annual Report 2013. Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter III (Violence Against Journalists and Media Workers). OEA/Ser. L/V/II. 149. Doc. 50. December 31, 2013. Par. 31; IACHR. [Annual Report 2016. Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter IV (Silenced zones: Highly dangerous areas for the exercise of freedom of expression). OEA/Ser.L/V/II.Doc. 22/17. March 15, 2017.

²¹³⁶ Office of the Special Rapporteur for Freedom of Expression. May 2, 2018. [Joint Declaration on Media Independence and Diversity in the Digital Age](#).

²¹³⁷ IACHR. [Annual Report 2005. Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter V. Public Demonstrations as an Exercise of Freedom of Expression and Freedom of Assembly. OEA/Ser.L/V/II.124 Doc. 7. February 27, 2006. Par. 96.

²¹³⁸ IACHR. Resolution No. 1/20. [Pandemic and Human Rights in the Americas](#). April 10, 2020.

the IACHR and its Office of the Special Rapporteur recall in a special way that, based on the obligation of active transparency, States must proactively provide truthful and reliable information on all aspects of public interest related to the pandemic, in open formats and in a manner accessible to all. Given the existence of the digital divide, States must find effective ways to fulfill the obligation of active transparency in such circumstances.²¹³⁹

1353. **Internet access is a *sine qua non* condition for the effective exercise of human rights.** The IACHR and its Office of the Special Rapporteur have highlighted that “in the current context of the health emergency generated by the COVID-19 pandemic, people's access to a quality Internet acquires an unavoidable centrality. Based on the isolation and/or social distancing measures imposed by governments at a global level and its extension over time, internet connection appears as the tool *par excellence* to continue with daily tasks that previously required face-to-face contact, in addition of being crucial for the exercise of civil, political, economic, social, and cultural rights”.²¹⁴⁰ In this regard, the IACHR has emphasized that States must guarantee “the broadest and most immediate access to the Internet service to the entire population and develop positive measures to rapidly reduce the digital divide faced by vulnerable groups and those with lower income”.²¹⁴¹

CHAPTER III: CONCLUSIONS AND RECOMMENDATIONS

1. The Office of the Special Rapporteur closes its Annual Report 2020 with a chapter of conclusions and recommendations. The objective of this section is to begin a fluid dialogue with Member States that will enable the Americas to emerge as an example in the area of respect, protection, and promotion of the right to freedom of expression.

A. Violence and threats against journalists and the media

²¹³⁹ IACHR. Special Rapporteurship for Freedom of Expression. April 18, 2020. [Press release R78/20. IACHR and its SR FOE express concern about restrictions on freedom of expression and access to information in States' response to the COVID-19 pandemic.](#)

²¹⁴⁰ IACHR. Office of the Special Rapporteur for Freedom of Expression. August 31, 2020. [Press release R206/20. States of the Region must Accelerate Universal Internet Access Policies during the COVID-19 Pandemic and Adopt Differentiated Measures to Incorporate Groups in Vulnerable Situations.](#)

²¹⁴¹ IACHR. Resolution No. 1/20. [Pandemic and Human Rights in the Americas.](#) April 10, 2020. Par. 31; IACHR. RIRCU Practical Guides to COVID-19 02. [How to ensure access to the Right to Education for Children and Adolescents during the COVID-19 Pandemic?](#)

2. The Office of the Special Rapporteur notes with extreme concern the continued high levels of violence against journalists in the region. Attacks, threats and intimidation of journalists and media outlets linked to their coverage continued to be an issue to which the Office gave special attention in 2020.

3. According to the Office's reports, at least 19 press workers were murdered in the exercise of their profession, in addition to other murders whose motive could be linked to their work as journalists. Murders of journalists were recorded in Mexico (8), Honduras (3), Venezuela (2), Guatemala (2), Colombia (2), Paraguay (1) and Barbados (1). Crimes against journalists, in addition to threats, intimidation and other attacks on their lives and integrity, demonstrate the persistence of patterns of violence in several States of the region.

4. In this regard, the Office the Special Rapporteur also notes with concern the lack of progress in judicial investigations into the murders of journalists, which contributes to widespread self-censorship of the press. Although some countries with persistent patterns of violence against the press, such as Colombia, Mexico and Honduras, have made progress in prevention and protection measures, the Special Rapporteurship is alarmed by the trend of impunity, which seriously jeopardizes any policy or action on the part of the States. This Office has warned on other occasions that many journalists choose to stop investigating and disseminating information of high public interest for their local communities to avoid reprisals against their lives or physical integrity or that of their family members. The role of the Justice in cases of crimes against the press is crucial for this Office, because it is the most important link in the rule of law to stop the repetition of violence against journalists.

5. Notwithstanding that, the Rapporteurship highlights that during 2020 there was some progress in the investigation, prosecution and punishment of those responsible for crimes committed against journalists in previous years. In this regard, the Office received with satisfaction information about the conviction against Juan Carlos Moreno Ochoa, alias 'El Larry', to 50 years in prison as he was considered a material co-author of the murder of journalist Miroslava Breach that occurred on March 23, 2017 in the state of Chihuahua.

6. Gender-based violence against women journalists continues to be of great concern to the Office. The Rapporteurship emphasizes that death threats, harassment and stigmatizing messages against journalists who cover issues of public interest related to corruption and drug trafficking, and those who denounce gender-based violence, continue to be a major challenge in several States, in some cases forcing them to leave their cities.

7. With regard to this point, the Office of the Special Rapporteur recommends Member States to:

- A. Adopt adequate preventive mechanisms in order to avert violence against media workers, including the public condemnation of all acts of aggression, omitting any statement that may increase the risk for journalists; the respect for journalists' right to keep their sources of information; the training of public officials, particularly police and security forces, and, if necessary, the adoption of operation manuals or guidelines on the respect for the right of freedom of expression, determining appropriate sanctions proportionate to the damage done; as well as the development of accurate statistics on violence against journalists.
- B. Adopt the measures necessary to guarantee the security of those who are at special risk by virtue of exercising their right to freedom of expression, whether the threats come from state agents or private individuals. Measures or protection programs must be suitable and sufficient for its purpose, in accordance with the views expressed in this report.
- C. Carry out serious, impartial, and effective investigations into the murders, attacks, threats, and acts of intimidation committed against journalists and media workers, in accordance with this report. This entails the creation of specialized units and special investigative protocols, as well as the identification and exhaustion of all possible case theories related to the professional work of the victim.
- D. Bring to trial, before impartial and independent tribunals, all those responsible for the murders, attacks, threats, and acts of intimidation based on the exercise of freedom of expression, remove legal obstacles to the investigation and punishment of these crimes, and provide the victims and their

family members ample participation during the investigation and prosecution, as well as adequate compensation, and eliminate gender barriers that obstruct access to justice.

- E. Adopt the necessary measures so that media workers in situations of risk who have been displaced or exiled can return to their homes in conditions of safety. If these persons cannot return, the States must adopt measures so that they can stay in their chosen place in conditions of dignity, with security measures, and with the necessary economic support to maintain their work and their family lives.
- F. Adopt specific, adequate and effective measures to prevent attacks and other forms of violence perpetrated against women journalists, and prosecute and punish those responsible. States must adopt effective measures to encourage reporting of cases of violence against women journalists and combat the impunity that characterizes those crimes.

B. Social protest

8. 2020 was also a year marked by protests and citizen demonstrations in different parts of the region. The Office of the Special Rapporteur noted with concern several episodes of excessive use of police force to disperse protests, which in some cases resulted in injuries, detentions and deaths.

9. The IACHR and its Office of the Special Rapporteur noted with extreme concern the situation in Peru, where between November 9 and 15, a series of social protests took place throughout the country after the Peruvian Congress voted in favor of the vacancy motion against President Martín Vizcarra and declared his "permanent moral incapacity." As a result of these events, the IACHR made a working visit to Peru from November 29 to December 2, 2020, with the aim of observing the human rights situation on the ground in the context of social protests.

10. They also gave special attention to the series of mass protests carried out in different parts of Colombia following the death of lawyer Javier Ordoñez on September 9, as a result of the beatings and electric shocks with Taser guns by agents of the Metropolitan Police of Bogota. Between September 9 and 10, demonstrations took place in Medellín, Barranquilla, Cali, Cúcuta, among other cities, in rejection of police violence. According to public sources, reportedly at least 13 people died during the protests and, as of September 11, more than 209 civilians were injured, and 194 police officers were injured.

11. Also, in 2020 Chile continued to experience demonstrations that first started in October 2019 in response to fare increases in the public transportation system. However, due to the crisis caused by the COVID-19 pandemic, social demonstrations have been restricted by general measures such as quarantines and a ban on gatherings.

12. In the context of these protests, journalists were physically attacked and faced various types of impediments, either by the actions of security forces or demonstrators, and in some cases their equipment and work elements were also violated, being stripped, destroyed or stolen. On this point, the Office of the Special Rapporteur documented attacks on journalists in the protests that exploded in the United States after the death of George Floyd on May 25, 2020, as well as during coverage of the presidential campaign and elections. A significant number of violations of the right to freedom of expression were reported by the media during coverage of these protests.

13. This Office again expresses the recommendation to adopt regulatory frameworks aimed at protecting and facilitating the exercise of social protest. The Office of the Special Rapporteur recalls that States should not fail to take into account that when faced with institutional frameworks that do not favor participation, or in the face of serious barriers to access to more traditional forms of mass communication, public protest can become the only means that really allows discontented sectors of the population, but not aligned with political parties, and discriminated or marginalized groups in the public debate to make their point of view heard and influence public debate.

14. In relation to this point, the Office of the Special Rapporteur recommends Member States to:

- A. Guarantee the legitimate exercise of social protest and prevent the application of disproportionate restrictions that can be used to inhibit or suppress critical or dissident expressions. In order to be

consistent with international obligations on human rights, any national regulation affecting the right to social protest must meet requirements of legality, necessity and proportionality.

- B. Initiate the necessary legislative reforms to eliminate from the legal system requirements for the previous authorization or permission to carry out demonstrations and protests in public spaces, and expressly establish the general presumption in favor of the exercise of this right.
- C. Ensure protection of individuals and refrain from stigmatizing or stereotyping protesters and their demands, avoiding generalizations based on the behavior of particular groups or isolated events. If security forces must act in a demonstration, they shall use the safest and least harmful measures to individual rights. The response of security forces should aim to protect and facilitate rights, not to repress them. The general principles on the use of force, applied to the context of protests and demonstrations, require that security operations be carefully and thoroughly planned by persons with specific experience and training for this type of situation.
- D. In the context of positive obligations to guarantee the right and protect the person exercising it as well as third parties, States should establish specific rules and action protocols for security forces acting in situations of social protest and public demonstrations. These guidelines should aim for police agents to act in the knowledge that their obligation is to protect the participants in a public meeting, demonstration or concentration, to the extent that it is the exercise of a human right.
- E. Guarantee that firearms are excluded from the devices used to control social protests. The ban on carrying firearms and lead ammunition by officials who may come into contact with protesters has been proven as the best measure of preventing lethal violence and deaths occurring in a context of social protests. Operations may provide for the availability of firearms and lead ammunition somewhere outside the range of the demonstration for those exceptional cases in which a violent situation warranting such use occurs. In this extreme scenario, there shall be explicit rules regarding who has the power to authorize their use and the ways in which this authorization is to be properly documented.

C. Criminalization of expression and proportionality of subsequent liabilities.

15. In 2020, the Office recorded in several member States the use of criminal law by public figures, state officials or candidates for elective office for the publication of opinions or information related to issues of public interest. In this regard, the Office of the Special Rapporteur followed with special attention the case of Brazil, Chile, Ecuador, Guatemala, Panama, Peru and the Dominican Republic.

16. As has been noted on previous occasions, despite the fact that several countries in the region have made considerable progress in adapting their legal framework to inter-American standards, some States still have laws that seek to disproportionately protect the honor and reputation of public officials. In this regard, the Special Rapporteurship once again highlights the persistence in the use of regulations contrary to the provisions of the American Convention in Caribbean countries such as the Bahamas, Barbados, Grenada, St. Kitts and Nevis, St. Vincent and the Grenadines, St. Lucia, and Trinidad and Tobago.

17. On the other hand, in the context of the pandemic, the Office noted that criminal regulations intended to protect health and public order were used in numerous States as mechanisms to harass journalists who covered issues related to COVID-19 and corruption, such as the irregular handling of public funds or irregular actions of public officials in the management of the health crisis. Likewise, in some States, these regulations were also used to persecute journalists, activists or citizens in general who questioned the official data on contagion in the different jurisdictions. In a press release published on April 18, 2020, the Office of the Special Rapporteur considered particularly worrying the facts observed in Argentina, Bolivia, Cuba, Colombia, Guatemala and Venezuela in this regard.

18. Finally, the Office of the Special Rapporteur observes with concern the tendency to use criminal offences such as “sedition”, “terrorism”, and “incitement to violence” in countries where systematic practices of persecution of journalists and dissidents have been established, such as Nicaragua and Venezuela.

19. In relation to this point, the Office of the Special Rapporteur recommends Member States to:

- A. Promote the repeal of contempt (*desacato*) laws, whatever their form, given that these norms are contrary to the American Convention and restrict public debate, an essential element of the practice of democracy.
- B. Promote the repeal of laws on criminal defamation, and in particular abstain from using criminal proceedings to protect honor and reputation when information is disseminated about issues of public interest, about public officials, or about candidates for public office. Protecting the privacy or the honor and reputation of public officials or persons who have voluntarily become involved in issues of public interest, should be guaranteed only through civil law.
- C. Promote the inclusion of inter-American standards in civil legislation so that civil proceedings against individuals who have made statements about public officials or about matters of public interest apply the standard of actual malice, in accordance with principle 10 of the Declaration of Principles, and are proportionate and reasonable.
- D. Promote the modification of ambiguous or imprecise criminal laws that disproportionately limit the right to freedom of expression, such as those aimed at protecting the honor of ideas or institutions, with the aim of eliminating the use of criminal proceedings to inhibit free democratic debate about all issues of public interest.

D. Statements by public leaders

20. Stigmatization and accusations by high-level officials against journalists, especially those investigating corruption and irregularities in the management of public funds during the pandemic, increased in several parts of the region. In 2020, the Office of the Special Rapporteur received information on declarations from high-level state authorities that disqualified and stigmatized the work of some communicators and media outlets, especially in de El Salvador, Nicaragua, Honduras, Venezuela, México, Guatemala, Argentina, Bolivia, Brazil and Estados Unidos. Such statements were followed, in several cases, by acts of harassment and threats on social networks by sympathizers of the governing political parties or even by other public officials.

21. The Office of the Special Rapporteur urges state authorities to contribute decisively to the construction of a climate of tolerance and respect in which all people can express their thoughts and opinions without fear of being attacked, punished, or stigmatized for it.

22. In relation to the pronouncements of public officials, in the context of the pandemic, the Office also called attention to the duty of public officials not to make, sponsor, encourage, or further disseminate statements which they know or reasonably should know to be false, that constitute disinformation, or demonstrate a reckless disregard for verifiable information. In this regard, States have been reminded that official information should, within reason, be scientifically based. On this point, during 2020, the cases of the United States, Brazil, Nicaragua and Venezuela have received particular attention from the Special Rapporteurship.

23. In relation to this point, the Office of the Special Rapporteur recommends Member States to:

- A. Encourage democratic debate through public declarations, practices, and policies that promote tolerance and respect of all individuals, under equal conditions, whatever their thoughts or ideas.
- B. Exhort the authorities to refrain from making public statements or using state media outlets to carry out public campaigns that can encourage violence against individuals because of their opinions. In particular, avoid statements that could stigmatize journalists, media outlets, and human rights defenders.

E. Freedom of expression on the Internet

24. In 2020, this Office observed new attempts by several States in the region to regulate the circulation of content on the Internet, in order to prevent certain speech considered "harmful" to public conversation in digital spaces. In this way, the Rapporteurship closely followed the legislative process of Bill No. .2630/2020 on "Internet Freedom, Responsibility and Transparency". On July 3, this Office of the Special Rapporteur

joined the United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression in sending a letter to the State of Brazil regarding the bill. The experts pointed to certain provisions they viewed as particularly problematic with regard to the principles of the right to freedom of expression, in accordance with Brazil's obligations under the International Covenant on Civil and Political Rights (ICCPR) and the American Convention on Human Rights. A number of the points called into question are reviewed hereinafter.

25. Likewise, the Office of the Special Rapporteur notes with extreme concern the approval of regressive laws for freedom of expression online, highlighting particularly the new Special Law on Cybercrime of Nicaragua, approved on October 27, 2020 and in force since December 29, 2020. The law establishes within its objectives "the prevention, investigation, prosecution, and punishment of crimes committed by means of Information and Communication Technologies", which are defined as "set of communication media and information applications that allow the capture, production, reproduction, transmission, storage, processing, treatment, and representation of information". Various civil society organizations and journalists have expressed their concern at the approval of this law, which is called the "Gag Law," stating that it is specifically directed at independent journalists and citizens who express themselves on the Internet, seeking to silence them.

26. The Office of the Special Rapporteur has been following closely the public debate on the role of social media platforms in content moderation and the right to freedom of expression and takes note of the initiatives of private companies such as Twitter, Facebook and YouTube to enact new internal rules and policies to address and attack the phenomenon of deliberate disinformation [disinformation], misinformation [misinformation] and misleading information [misleading information], as well as to create oversight bodies, such as the Oversight Board [Content Advisory Board] on Facebook. Since the outbreak of the pandemic, the main platforms have adopted various measures and decisions to limit the scope of misinformation through content moderation, in addition to promoting sources of information from health institutions such as the WHO.

27. Finally, the Office gave special attention to policies on connectivity and digital literacy in the context of the pandemic. As noted in a press release published on August 31, 2020, the global health emergency revealed the serious limitations and marked differences that exist in the region for access to the Internet and, consequently, for the exercise of freedom of expression and fundamental rights such as the right to education, health, work and culture. On that occasion, the IACHR and its Rapporteurship recognized the adoption of positive measures by various governments and regulators of the continent to ensure access and continuity of Internet access and telecommunications services during the global health crisis. However, they warned that this type of transitory measures must be accompanied by solid, planned, long-term public policies and plans, with special emphasis on vulnerable groups such as indigenous peoples, Afro-descendants, women, children and adolescents, and the elderly, among others. In relation to this issue, the Rapporteurship has contributed to the work of the Room for Coordination and Timely and Integrated Response to the crisis in relation to the COVID-19 pandemic (SACROI COVID-19) with the Practical Guide No. 3 "How to promote universal access to the Internet during the COVID-19 pandemic".

28. In relation to this point, the Office of the Special Rapporteur recommends to the Member States:
- A. Avoid regulatory frameworks that hold internet intermediaries responsible for user content circulating on their platforms, which may encourage the dynamics of "private censorship".
 - B. Avoid the creation of general and/or ambiguous laws in order to combat disinformation on the internet, as well as the use of criminal prohibitions to punish the dissemination of "falsehoods" or "non-objective information".
 - C. Promote universal access to the Internet to ensure universal and effective enjoyment of the right to freedom of expression through this medium.
 - D. Carry out positive actions for literacy, awareness and development of digital competencies and skills.

- E. Ensure that the treatment of data and Internet traffic should not be subject to any kind of discrimination based on factors such as devices, content, author, origin and/or destination of the material, service or application, in accordance with the principle of net neutrality.

F. Access to information

29. The outbreak of the pandemic brought significant challenges to the exercise of the right of access to public information. In 2020, the Office of the Special Rapporteur recorded restrictions to the exercise of this right based on the declaration of states of emergency that restricted fundamental freedoms to prevent the spread of the virus. Thus, for example, as highlighted in a press release published on April 18, 2020, the IACHR and its Special Rapporteurship identified restrictions on the access of journalists to press conferences and the possibility of asking questions about the pandemic; as well as the suspension of deadlines for processing administrative procedures for requesting public information.

30. Likewise, the Rapporteurship notes once again that, despite the advances in the incorporation of standards of the Inter-American system, in some member states there are still important challenges in relation to restrictions on access to public information and the so-called "culture of secrecy". Of particular concern to the Rapporteurship are the restrictions on access to information on serious human rights violations registered during 2020 in Colombia and El Salvador. In these cases, institutional barriers and systematic non-compliance with Inter-American obligations and standards have been observed.

- 31. In relation to this point, the Office of the Special Rapporteur recommends to the Member States:
 - A. Continue promulgating laws that permit effective access to information and complementary norms that guarantee its adequate implementation, in conformity with the international standards in this area.
 - B. Guarantee effectively, both de jure and de facto, the right of habeas data of all persons, this being an essential element of freedom of expression and the democratic system.
 - C. Encourage the effective and efficient implementation of norms on access to information, adequately training public employees and informing the citizenry in order to eradicate the culture of secrecy and provide citizens the tools to effectively monitor state activities, public administration and the prevention of corruption, all essential to the democratic process.
 - D. Strengthen the institutional structure for supervision of the implementation of laws regarding access to public information, pursuant to the highest standards in this field, such as those adopted by the General Assembly of the OAS, in its Resolution AG/RES. 2607 (XL-O/10), by means of which it adopts the "Model Inter-American Law on Access to Information."
 - E. Promote the widespread dissemination of information on the human rights of women and how to uphold them, the mechanisms of protection available to women at potential risk of suffering violence and how to access them, the programs for free legal assistance available to women victims of violence and discrimination, and all other mechanisms for addressing these issues.
 - F. Step up efforts to move towards the effective implementation of comprehensive systems for compiling information on discrimination and violence against women that incorporate information from all State organs with authority in this area, especially the judicial systems. Based on the information collected, States should produce complete statistics on violence and discrimination against women, as well as other kinds of quantitative and qualitative information in this respect. Those statistics should be updated periodically and should include information that is disaggregated at least by sex, gender identity, age, race, ethnicity, sexual orientation, socioeconomic status, and situation of disability so as to make it possible to construct an accurate image of the specific forms in which violence and discrimination affect the women in most vulnerable situations. The statistical information produced should be proactively published.
 - G. Establish systematic policies for the education and training of state officials, in particular judicial officers, on international standards in relation to access to information and violence and

discrimination against women. In addition, train the civil society organizations in the use of the mechanisms available to make requests of information to the state.

G. Censorship

32. The Office of the Special Rapporteur learned of judicial actions that suspended or prohibited the publication of information of public interest or artistic manifestations, especially in Brazil, Chile, Panama, and Uruguay. Censorship actions have also occurred through pressure from high-level authorities to cancel certain content or journalistic space.

33. As noted in the 2019 annual report of the Office of the Special Rapporteur, in Venezuela, Cuba and Nicaragua there is a pattern of coordinated attacks by the State against journalists, independent media and opposition activists in order to silence them. In these States, there are different forms of censorship of national and foreign media, arbitrary arrests of journalists and human rights defenders, as well as different forms of blocking websites.

34. The Rapporteurship has also noted that criminalization and censorship of women who denounce male violence is on the rise in the region. In particular, there are actions of persecution against women's groups that make gender violence visible through artistic interventions.

35. In relation to this point, the Office of the Special Rapporteur recommends to the Member States:

- A. Eliminate any norm that enables prior censorship by any state organ, and also any prior condition that may imply censorship of freedom of expression, such as prior requirements of truthfulness, timeliness, or impartiality of information.
- B. Adopt legislation to regulate the State's authority to control and supervise the allocation of public goods or resources related directly or indirectly with the exercise of freedom of expression. On this point, the task is to adjust institutional frameworks with two central objectives: first, to eliminate the possibility that State authority is used to reward or punish media outlets according to their editorial positions, and second, to foster pluralism and diversity in the public debate

H. Cyberpatrolling operations

36. Increasingly, the Office of the Special Rapporteur continued to receive information about a trend in the region of practices of official parameterization of the expression of those who express themselves through social networks and the use of various technologies to monitor journalists, activists and social and political leaders in some countries of the region. In 2020, the Rapporteurship was particularly concerned about various acts of "cyberpatrolling" publicly denounced in Argentina and Colombia. Likewise, this Office continues to observe strategies of control and surveillance of citizens' communications on social networks in Cuba, Nicaragua and Venezuela.

37. In relation to this point, the Office of the Special Rapporteur recommends to the Member States:

- A. Review their legislation to establish limits on the power to oversee private communications, their necessity and proportionality, pursuant to the public's universal rights and the principles of international law that have been taken up in this report.
- B. Ensure that the public can have access to information on programs for surveillance of private communications, their scope and the existing controls to guarantee that they cannot be used arbitrarily. In any case, States must establish independent control mechanisms to ensure the transparency and accountability of these programs.
- C. Abstain from punishing journalists, members of the media or members of civil society who have access to and disseminate reserved information about this type of surveillance programs, considering it to be of public interest. Confidential sources and materials associated with dissemination of reserved information must be protected by law.
- D. Establish regulations to guarantee that individuals who expose wrongdoing, serious maladministration, a breach of human rights, humanitarian law violations or other threats to the

overall public interest, for example in terms of safety or the environment, should be protected against legal, administrative or employment related sanction, even if they have otherwise acted in breach of a binding rule or contract, as long as at the time of the disclosure they had reasonable grounds to believe that the information disclosed was substantially true and exposed wrongdoing or the other threats noted above

ANNEXES

NATIONAL SECURITY AND THE RIGHT TO INFORMATION

July 2020

Capítulo I – INTRODUCCIÓN Y METODOLOGÍA

1. The Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR) is pleased to publish this report. It presents, through a systematized approach, the principles applicable to the protection of the right of access to information in the public interest and the scope of the exceptions raised by state actors on the grounds of preserving national security. Because access to information is so crucial for democracy and the protection of human rights in the region, the Office of the Special Rapporteur believes that the issues discussed here are particularly important among the complex phenomena affecting the human rights situation in the Americas.²¹⁴²

2. The right of access to information is a fundamental pillar of democracy. It is through the full and effective guarantee of the right to seek, receive, and impart information and ideas of all kinds that it becomes truly possible to build active and participatory citizenship. The right of access to information and freedom of expression are “the means that enable the community, when exercising its options, to be sufficiently informed. Consequently, it can be said that a society that is not well informed is not a society that is truly free.”²¹⁴³ Within the inter-American framework, the Inter-American Democratic Charter reaffirms the importance of transparency in government activities, participation, and freedom of expression as fundamental components of democracy.²¹⁴⁴ These are vitally important elements for the consolidation and functioning of the democratic rule of law.²¹⁴⁵

²¹⁴² Some examples that illustrate the increased importance for the region of access to information of public interest regarding the activities of the State in relation to national security and the functions of national security bodies are: the weakening of the rule of law and democratic institutions in various countries and the serious impact this has had on human rights in recent years; impunity and corruption; increased violence and crime, with several of the world’s most violent countries being located in the Americas, and with Latin America and the Caribbean having the world’s highest homicide rate; the militarization of public security and the implementation of “iron fist” policies in response to these serious phenomena, which in turn exacerbate and perpetuate cycles of violence and crime; the construction of “domestic enemies” to justify the persecution of political dissidence and the repression and criminalization of protest in different countries of the region; the expansion of the national security agenda and its impact on human rights; the continuing need to ensure effective access to records in order to fully and effectively satisfy the right to information, the right to the truth, to facilitate justice, reparation, and guarantees of non-repetition with respect to the serious human rights violations that have occurred in the region; the lack of cooperation and the withholding of information from victims, families of victims, and in the framework of the transitional justice processes that have taken place in different countries, and in general, the lack of adequate and comprehensive mechanisms for independent monitoring of the workings and activities of intelligence agencies. IACHR. [Annual Report 2017. Chapter IV. Human Rights Developments in the Region](#). OEA/Ser.L/V/II. Doc. 210. December 31, 2017; IACHR. [Gross Human Rights Violations in the Context of Social Protests in Nicaragua](#). OEA/Ser.L/V/II. Doc. 86 June 21, 2018; IACHR. [Situation of Human Rights in Guatemala](#). OEA/Ser.L/V/II. Doc. 208/17 December 31, 2017; IACHR. [Democratic institutions, the rule of law and human rights in Venezuela](#). OEA/Ser.L/V/II. Doc. 209 December 31, 2017; IACHR. [Situation of Human Rights in Mexico](#). OEA/Ser.L/V/II. Doc. 44/15 December 31, 2015; IACHR. [Situation of Human Rights in Honduras](#). OEA/Ser.L/V/II. Doc. 42/15 December 31, 2015; IACHR. [Resolution 1/17](#). Human Rights and the Fight against Impunity and Corruption. September 12, 2017; IACHR. [Resolution 1/18](#). Corruption and Human Rights. March 2, 2018; Inter-American Development Bank. [Crime and Violence: Obstacles to Development in Latin American and Caribbean Cities](#). November 2018; IACHR. [170th Regular session. Public Hearing on the “Militarization of Public Security”](#). December 6, 2018; IACHR. [Interdisciplinary Group of Independent Experts. Nicaragua. Report on the violent events that took place between April 18th and May 30th, 2018](#), pp. 178; CELS. [The Internal War: how the fight against drugs is militarizing Latin America](#) 2018; IACHR. [Press Release 26/2019. IACHR Condemns Increasing Attacks on the Press and Ongoing Human Rights Violations in Nicaragua](#). February 6, 2019; Lessa, Francesca (2019). [Investigating Crimes against Humanity in South America: Present and Future Challenges](#). Latin American Centre, Oxford University.

²¹⁴³ I/A Court H.R., [Compulsory Membership in an Association Prescribed by Law for the Practice of Journalism \(Arts. 13 and 29 American Convention on Human Rights\)](#). [Advisory Opinion OC -5/85](#) of November 13, 1985. Series A No. 5. Para. 70; I/A Court H.R., [Case of Ríos et al. v. Venezuela. Preliminary Objections, Merits, Reparations, and Costs](#). Series C. No. 194. Para. 105; I/A Court H.R., [Case of López Lone et al. v. Honduras](#). Series C. No. 302. Para. 165; I/A Court H.R., [Case of Carvajal Carvajal et al. v. Colombia. Merits, Reparations and Costs](#). Judgment of March 13, 2018. Series C No. 352. Para. 177 [only in Spanish].

²¹⁴⁴ Article 4 of the Inter-American Democratic Charter provides: “Transparency in government activities, probity, responsible public administration on the part of governments, respect for social rights, and freedom of expression and of the press are essential components of the exercise of democracy.

The constitutional subordination of all state institutions to the legally constituted civilian authority and respect for the rule of law on the part of all institutions and sectors of society are equally essential to democracy.”

3. The inter-American system has played a key role in the process of consolidating and developing the right of access to public information in the region. In the 2006 case of *Claude Reyes v. Chile*, the Inter-American Court became the first international court to recognize that the right of access to public information is protected under international law and that the State is required to guarantee it through a set of specific obligations. By expressly stipulating the rights to “seek” and “receive” “information,” Article 13 of the American Convention protects the right of every person to request access to information under the control of the State, with the exceptions permitted under the restrictions regulated in the Convention.²¹⁴⁶ The Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights also impose legal obligations on states to fully and effectively guarantee the right to seek and receive information.²¹⁴⁷

4. In the last two decades a significant number of states in the Americas have amended their legal framework to recognize the right of access to public information as a fundamental right and to regulate its exercise and implementation through access to public information laws.²¹⁴⁸ Various countries in the region have created institutions to oversee these laws and have taken other initiatives to promote openness on the part of governments and public authorities.²¹⁴⁹

5. Notwithstanding these developments, the Office of the Special Rapporteur has noted that ensuring the adequate and effective implementation of access to public information laws continues to pose a major challenge for the region. Indeed, there are still challenges associated with the international obligation to adapt the national legal framework to the requirements of access to public information.²¹⁵⁰ Opacity about the

Article 6 of the Inter-American Democratic Charter provides: “It is the right and responsibility of all citizens to participate in decisions relating to their own development. This is also a necessary condition for the full and effective exercise of democracy. Promoting and fostering diverse forms of participation strengthens democracy.”

²¹⁴⁵IACHR. [Annual Report 1999. Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter I (General Reports). OEA/Ser.L/V/II.106. Doc. 3. April 13, 2000, pp. 10; UN. [The rule of law and transitional justice in conflict and post-conflict societies: report of the Secretary-General. S/2004/616](#). 3 August 2004. Para. 6; UN. [Resolution adopted by the General Assembly A/RES/67/1](#). 24 September 2012, paras. 5, 7; UN. [Delivering justice: programme of action to strengthen the rule of law at the national and international levels. Report of the Secretary-General. A/66/749](#). 12 March 2012. Paras. 2,4, 19.

²¹⁴⁶I/A Court H.R., [Case of Claude Reyes et al. v. Chile](#). Merits, Reparations and Costs. Judgment of September 19, 2006. Series C No. 151. Para. 77. On this point, the Inter-American Court stated: “In relation to the facts of the instant case, the Court finds that, by expressly stipulating the right to ‘seek’ and ‘receive’ ‘information,’ Article 13 of the Convention protects the right of all individuals to request access to State-held information, with the exceptions permitted by the restrictions established in the Convention. Consequently, this article protects the right of the individual to receive such information and the positive obligation of the State to provide it, so that the individual may have access to such information or receive an answer that includes a justification when, for any reason permitted by the Convention, the State is allowed to restrict access to the information in a specific case. The information should be provided without the need to prove direct interest or personal involvement in order to obtain it, except in cases in which a legitimate restriction is applied. The delivery of information to an individual can, in turn, permit it to circulate in society, so that the latter can become acquainted with it, have access to it, and assess it. In this way, the right to freedom of thought and expression includes the protection of the right of access to State-held information, which also clearly includes the two dimensions, individual and social, of the right to freedom of thought and expression that must be guaranteed simultaneously by the State.”

²¹⁴⁷I/A Court H.R., [Case of Claude Reyes et al. v. Chile](#). Merits, Reparations and Costs. Judgment of September 19, 2006. Series C No. 151. Para. 76.

²¹⁴⁸ It is important to note that several states in the Americas have not enacted access to public information laws. According to information released by the Office of the Special Rapporteur, as of 2016, 23 countries in the hemisphere had access to public information laws (See: IACHR. [Annual Report 2016. Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter VI (Conclusions and Recommendations). OEA/Ser.L/V/II. Doc. 22/17. March 15, 2017. Para. 23. According to information gathered by UNESCO, by 2018, “In the Caribbean, only very few countries have freedom of information acts in place, and where such legislation does exist, authorities have established complex mechanisms to actually access information, which prove cumbersome” (Cfr.: UNESCO. [World trends in freedom of expression and media development: regional overview of Latin America and the Caribbean 2017/2018](#). 2019, pp. 13).

²¹⁴⁹ IACHR. [Annual Report 2014. Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter IV (The Right to Access to Public Information in the Americas: specialized supervisory and enforcement bodies). OEA/Ser.L/V/II Doc. 13 March 9, 2015. Para. 4.

²¹⁵⁰ IACHR. [Annual Report 2017. Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter III (Conclusions and Recommendations). OEA/Ser.L/V/II. Doc. 210/17 December 31, 2017. Para. 23; UNESCO. [World trends in freedom of expression and media development: regional overview of Latin America and the Caribbean 2017/2018](#). 2019, pp. 13; UNESCO. [Communication and Information Discussion Papers. No. 8. Access to Information: Lessons from Latin America](#). 2017.

State's activities in certain areas provides fertile ground for the occurrence and recurrence of serious human rights violations.²¹⁵¹

6. In particular, several states in the region have been incorporating provisions into their legal systems that establish or strengthen the classification and secrecy of information concerning national security matters, under definitions or conditions that are incompatible with inter-American standards on the right of access to information.²¹⁵² One of the factors that continues to favor the discretionary use of restrictions on access is the absence of clarity and precision in the regime of exceptions. This situation is exacerbated by the lack of strict compliance with the harm and public interest test in classifying information, all of which hinders public oversight and creates the potential for illegal behavior, human rights violations, and concealment.²¹⁵³

7. The Office of the Special Rapporteur recognizes that national security is an essential interest for states and the protection of democratic society, but it should not be overlooked that some of the serious human rights violations that have been committed—and which in some cases are being repeated in the region—have been and are justified in the name of national security. National security interests have also been invoked to defend restrictions on privacy, freedom of expression, and individual rights.²¹⁵⁴ The use of a broad and vague concept of national security to limit the enjoyment of human rights is one of the contemporary legal threats to freedom of expression.²¹⁵⁵ It has also been used as the rationale for targeting groups such as human rights defenders, journalists, and activists, or to shroud the operations and activities of security agencies in unwarranted secrecy.²¹⁵⁶

8. In addition, within the arduous process of consolidating the region's democracies, the Office of the Special Rapporteur recognizes the role of the judiciary and access to information oversight bodies in the development of a democratic concept of national security. This report highlights court decisions and information on best practices submitted to the Office of the Special Rapporteur by states, civil society, and

²¹⁵¹ IACHR. Office of the Special Rapporteur for Freedom of Expression. [The Inter-American legal framework regarding the right to access to information. Second edition](#). OEA/Ser.L/V/II. CIDH/RELE/INF. 9/12. March 7, 2011. Para. 106.

²¹⁵² IACHR. [Situation of Human Rights in Honduras](#). OEA/Ser.L/V/II. Doc. 42/15. December 31, 2015. Para. 485; IACHR. Office of the Special Rapporteur for Freedom of Expression. [Informe Especial sobre la situación de libertad de expresión en Chile](#). [Special report on the situation of freedom of expression in Chile]. OEA/Ser.L/V/II. CIDH/RELE/INF. 16/17. March 15, 2017, paras. 77-79; IACHR. [Democratic Institutions, the rule of law and human rights in Venezuela](#). OEA/Ser.L/V/II. Doc. 209. December 31, 2017, paras. 328-334; UN. Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression. . A/HRC/23/40. 17 April 2013. Para. 60; [IACHR, 156th Session, Public Hearing: "Access to Information and National Security in the Americas"](#), October 20, 2015. See also: Inter American Press Association (IAPA). [73rd General Assembly, Resolution on Access to Information](#). United States of America. October 27-30, 2017; Inter American Press Association (IAPA). [General Assembly, Resolution on Access to Public Information](#). Chile. October 21, 2014; Inter American Press Association (IAPA). [Report on the United States of America](#). General Assembly, Chile, October 16, 2014.

²¹⁵³ IACHR. 156th Session. [Access to Information and National Security](#). October 20, 2015; Open Society Justice Initiative. Additional information submitted in connection with the public hearing. Available for consultation in the archives of the Office of the Special Rapporteur.

²¹⁵⁴ UN. [Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression](#). A/HRC/23/40. 17 April 2013, paras. 58-60; UNESCO. [World trends in freedom of expression and media development: regional overview of Latin America and the Caribbean 2017/2018](#). 2019, p. 12; United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples' Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information, [Joint Declaration on Media Independence and Diversity in the Digital Age](#). May 2, 2018; United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression and the Special Rapporteur for Freedom of Expression of the OAS Inter-American Commission on Human Rights, [Joint Declaration on Surveillance Programs and Their Impact on Freedom of Expression](#). June 21, 2013.

²¹⁵⁵ UN. [Report of the Special Rapporteur on the promotion and protection of the right to freedom of expression](#). A/HRC/23/40. April 17, 2013. Paras. 58-60; United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples' Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information, [Joint Declaration on Media Independence and Diversity in the Digital Age](#). May 2, 2018.

²¹⁵⁶ UN. [Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression](#). A/HRC/23/40. 17 April 2013. Para. 60.

academia as part of the online consultation held between March and April 2018. The Office received written contributions from eight states²¹⁵⁷ and from eight civil society organizations and academic institutions.²¹⁵⁸

9. On this as on other issues, the IACHR and its Office of the Special Rapporteur recognize the role that civil society organizations and groups in the hemisphere play in defending, promoting, and protecting the right of access to information.²¹⁵⁹ In 2013, the Office of the Special Rapporteur for Freedom of Expression participated in the international dialogue that led to the adoption of the Global Principles on National Security and the Right to Information. These principles, known as the *Tshwane Principles* (hereinafter, Thswane Principles), were drafted by 22 organizations with the assistance of the four Special Rapporteurs on the promotion and protection of freedom of expression and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism.²¹⁶⁰ The then Special Rapporteur for Freedom of Expression of the IACHR, Catalina Botero, welcomed these Principles “as the appropriate balance to ensure State capacity to protect security and the protection of individual freedoms.”²¹⁶¹ This report expressly embraces these principles in view of their robust drafting process and with the understanding that they serve as a key tool for ensuring the proper implementation of the inter-American standards on the right to information in national legislation and practices.

10. Similarly, the Office of the Special Rapporteur held a meeting of experts on December 3, 2018, to gather additional information and input for this report. The IACHR also convened several public hearings between 2015 and 2018 to address this issue. A survey was conducted of national high court judgments, reports, and resolutions of UN human rights bodies and thematic mandates on the various topics addressed, as well as lower court decisions issued at the national level.²¹⁶²

Chapter II – REGIONAL CHALLENGES IN ENSURING ACCESS TO INFORMATION OF PUBLIC INTEREST RELATED TO NATIONAL SECURITY

11. International instruments and standards protect the right of all persons to access information held by the State. At the same time, they acknowledge that this right is not absolute and that, in order to protect legitimate interests, states may need to classify certain information. National security is one of the narrowly defined exceptions under international law. An appropriate balance between the disclosure and classification of information based on national security considerations is essential for the consolidation and functioning of democratic societies, their security and sustainable development, and for ensuring the full enjoyment of human rights.²¹⁶³

12. In the inter-American sphere, Article 13(2) allows restrictions to be imposed on the freedom to seek, receive, and impart information of all kinds for “the protection of national security,” but at the same time requires strict compliance with the following: any limitations on the exercise of the right of access to

²¹⁵⁷ The Office of the Special Rapporteur received information from the following agencies: Argentina: Access to Public Information Agency; Ministry of Defense; Mexico: National Institute for Transparency, Access to Information and Personal Data Protection; Uruguay: Access to Public Information Unit; Honduras: Access to Public Information Institute; Panama: National Authority for Transparency and Access to Information; Guatemala: Human Rights Ombudsperson; El Salvador: Access to Public Information Institute.

²¹⁵⁸ The Office of the Special Rapporteur received information from the following organizations: *Centro de Estudios Legales y Sociales. Asociación por los Derechos Civiles* (Argentina); *Red en Defensa de los Derechos Digitales*, R3D, and *Equis* (Mexico); *Espacio Público y Transparencia Venezuela* (Venezuela); *Fundación Datos Protegidos* (Chile); *Grupo de Acciones Públicas de la Universidad del Rosario* (Colombia).

²¹⁵⁹ Mendel, T. [Freedom of Information: A Comparative Legal Survey](#). Second Edition. UNESCO, 2008, pp. 3-5; CAinfo. [Venciendo la cultura del secreto. Obstáculos en la implementación de políticas y normas de acceso a la información pública en siete países de América Latina](#) [Overcoming the Culture of Secrecy: Obstacles in the Implementation of Access to Information Laws and Policies in Seven Latin American Countries]. CAinfo, 2010, pp. 23.

²¹⁶⁰ Open Society Foundations/Open Society Justice Initiative. [The Global Principles on National Security and the Right to Information \(Tshwane Principles\)](#). June 12, 2013. Background and Rationale.

²¹⁶¹ Open Society Foundations /Open Society Justice Initiative. [The Global Principles on National Security and the Right to Information \(Tshwane Principles\)](#). June 12, 2013.

²¹⁶² The Office of the Special Rapporteur is grateful for the special cooperation of the *Red de Transparencia* (RTA), which is a network of public entities that monitor transparency and access to information in the region, civil society organizations that specialize in access to information and human rights, and the academics, experts, and experts who have contributed to this report.

²¹⁶³ Open Society Foundations/Open Society Justice Initiative. [The Global Principles on National Security and the Right to Information \(Tshwane Principles\)](#). June 12, 2013. Background and Rationale.

information must be expressly set out in a clear and precise law, must pursue one of the legitimate aims provided for under international law—in this case national security—and must be strictly necessary, suitable, and proportionate.²¹⁶⁴ The Inter-American Court of Human Rights has been emphatic in saying that failure to comply with these conventional limits creates fertile ground for the State to take discretionary and arbitrary action in classifying information as secret, reserved, or confidential, and creates legal uncertainty about the exercise of that right and the State’s powers to restrict it.²¹⁶⁵

13. According to the information gathered, there are ongoing tensions in the region due to the culture of secrecy surrounding national security matters, as well as normative and implementation in access to information laws. All of the above operates as a real obstacle to the effective enjoyment of the right of access to information, ultimately affecting the lack of transparency and accountability in this area. This chapter seeks to highlight those challenges arising from the legal framework and its implementation, specifically with regard to information of public interest that concerns national security or is held by security sector bodies in a democratic state.²¹⁶⁶

A) Challenges arising from the legal framework and the regulation of national security exceptions

Lack of clarity and precision in the legal framework

14. In several countries, the exceptions to access to information based on national security interests do not exist within a clear and precise legal framework, as required by Article 13(2) of the American Convention on Human Rights. One of the most recurrent factors is the vague definition of “national security” in the respective national laws.

15. Indeed, some laws include a wide range of risks and threats under the heading of national security and defense,²¹⁶⁷ such as the security, integrity, stability, and continuity of the State and its territory; national defense against external threats; international and diplomatic relations; maintenance of constitutional order and governance; national development, conservation of strategic resources; security, and the lives of citizens. One academic study on this topic concluded that “[t]he definition of national security varies according to the security threats faced by states, the interests they seek to protect at any given time, foreign defense policy (and in some cases, domestic security policy) adopted by governments, and the theoretical schools of thought behind the concept of security. Therefore, on a comparative level, it is difficult to find consensus on the scope of the definition of national security.”²¹⁶⁸

16. In different national laws, terms such as “defense,” “state security,” “national security,” or even “public security” or “domestic security” are often grouped together under this exception. Since these concepts are not usually expressly defined in access to public information laws, but in other legal provisions relating to security or intelligence matters, this vagueness creates significant legal difficulties in classifying or declassifying information under this exception.

17. For instance, in **Chile**, Article 8 of the Constitution states that “The acts and resolutions of state bodies are public, as are their legal bases and the procedures they use. However, only a law passed by absolute majority may establish the confidentiality or secrecy of those legal bases and procedures, when

²¹⁶⁴ IACHR. Office of the Special Rapporteur for Freedom of Expression. [The Inter-American legal framework regarding the right to access to information. Second edition](#). OEA/Ser.L/V/II. CIDH/RELE/INF. 9/12. March 7, 2011. Para. 11.

²¹⁶⁵ I/A Court H.R., [Case of Claude Reyes et al. v. Chile. Merits, Reparations and Costs](#). Judgment of September 19, 2006. Series C No. 151. Para. 98.

²¹⁶⁶ A comprehensive response must include the set of positive obligations derived from the State’s obligation to create a culture of transparency and appropriate implementation.

²¹⁶⁷ See, e.g.: United Mexican States. [National Security Program](#), 2014-2018, DOF 30/4/2014, Ministry of the Interior, April 30, 2014; Republic of Peru. [Supreme Decree adopting the National Security and Defense Policy. SUPREME DECREE No. 012-2017-DE](#), December 20, 2017; Eastern Republic of Uruguay. [Política de Defensa Nacional, formulada por el Consejo de Defensa Nacional](#) [National Defense Policy, formulated by the National Defense Council]. April 29, 2014; United States of America. [National Security Strategy of the United States of America](#), December 2017; Canada. [Canadian Security Intelligence Service Act](#) (R.S.C., c. C-23). 1985.; Canada. [Security of Canada Information Disclosure Act](#), (S.C., c. 20, s. 2). 2015. Available at: <http://laws-lois.justice.gc.ca/eng/acts/S-6.9/FullText.html>.

²¹⁶⁸ CELE-CAINFO. [Seguridad nacional y acceso a la información en América Latina: estado de situación y desafíos](#) [National Security and Access to Information in Latin America: Status and Challenges], July 2012, pp. 13.

public disclosure would affect the performance of those bodies' duties, the rights of individuals, the security of the Nation, or the national interest." Additionally, the 2008 Law on Transparency and Access to Government Information [*Ley de Transparencia de la Función Pública y de Acceso a la Información de la Administración del Estado de 2008*]²¹⁶⁹ (Law No. 20.285) regulates the grounds for "secrecy or confidentiality under which access to information may be denied in whole or in part," and provides that the right of access to information may be limited "when its disclosure, communication, or knowledge affects the security of the Nation, particularly if it concerns national defense or the maintenance of public order or public safety." The denial of a request for information must be reasoned and must specify the relevant legal provision. However, the concept of "security of the Nation" and its operational content is not defined in regulations, which has created difficulties of interpretation.²¹⁷⁰

18. The Council for Transparency [*Consejo para la Transparencia*] has determined that the fact that information is related to a legally protected national security interest is not enough to justify a restriction on the right of access to information; rather, it is also necessary to prove a reasonable expectation of harm—that is, that its disclosure would cause certain, probable, and specific harm, and that the potential harmful effects of its disclosure on any of the interests enshrined in the Transparency Act is proportionate to the potential harmful effects of its withholding on free access to information and the principle of openness.²¹⁷¹ According to the information available, in different cases the Council took a "narrow" approach to the concept of national security in order to limit its content, referring to it as "the protection of military strength and the foreign relations necessary to prevent threats to territorial integrity."²¹⁷²

19. In **El Salvador**, Article 19 of the Access to Public Information Act [*Ley de Acceso a la Información Pública*]²¹⁷³ provides that "secret military plans and the political negotiations referred to in Article 168(7) of the Constitution"²¹⁷⁴ (political negotiations that must be kept confidential) and "anything that undermines or endangers national defense and public security," "is confidential information." The National Defense Act defines the concept of national security as the "[s]et of ongoing actions that the State undertakes to create the conditions to effectively handle international conflicts, disturbances of the public peace, natural disasters, and vulnerabilities that limit national development and jeopardize the achievement of national goals."²¹⁷⁵ Article 21 requires the performance of a harm test and specifies the required content of a decision on secrecy or confidentiality.

20. In **Mexico**, the concept of national security is defined in the National Security Act [*Ley de Seguridad Nacional*], which provides that "National Security is understood as the actions directly and immediately aimed at maintaining the integrity, stability, and continuity of the Mexican State, which entails": "[p]rotecting

²¹⁶⁹ Republic of Chile. [Access to Public Information Act](#) [*Ley sobre acceso a la información pública*]. 2008 (Updated).

²¹⁷⁰ Fundación Datos Protegidos, information provided during the online consultation conducted by the Office of the Special Rapporteur. In this regard, see also: Contreras, Pablo (2014), *Secretos de Estado. Transparencia y Seguridad Nacional* [State Secrets: Transparency and National Security]. (Thomson Reuters). Ch. II. La seguridad de la Nación como causal de reserva de información pública [National security as grounds for keeping public information confidential].

²¹⁷¹ Contreras, Pablo (2014), *Secretos de Estado. Transparencia y Seguridad Nacional*. (Thomson Reuters). Ch.II. La seguridad de la Nación como causal de reserva de información pública. Subsection 5. Criterios para la resolución de antinomias y grupos de casos [Criteria for resolving conflicts of authority and groups of cases]. See, e.g. the following CPLT decisions discussed in the abovementioned study: José Pedro de la Carrera Valdés con Carabineros de Chile Case file: [A45-09](#) July 28, 2009 (Council dissenting opinion of Juan Pablo Olmedo); Luis Narváez Almendras con Ejército de Chile Case file: [C512-09](#) January 15, 2010; Weatherhaven Chile SA con Estado Mayor Conjunto Case file: [C349-11 y C536-11](#) August 24, 2011. See also other resolutions in which the Council has noted the application of the abovementioned standard for the purpose of receiving protection: Paulo Montt Rettig con Ministerio de Defensa Nacional Case file: [C396-10](#) November 2, 2010; Samuel Donoso Boassi, Lizandro Godoy Araneda y Felipe de la Fuente Halaud con Estado Mayor Conjunto Case files: [C12-13 & C116-13](#) August 7, 2013.

²¹⁷² Fundación Datos Protegidos, information provided during the online consultation conducted by the Office of the Special Rapporteur. See also: Contreras, Pablo (2014), *Secretos de Estado. Transparencia y Seguridad Nacional*. (Thomson Reuters). Ch. II. La seguridad de la Nación como causal de reserva de información pública. 3. Presupuestos jurisprudenciales para la limitación del derecho de acceso a la información pública [Legal assumptions for limiting the right of access to public information]. See also, e.g.: Samuel Donoso Boassi, Lizandro Godoy Araneda & Felipe de la Fuente Halaud con Estado Mayor Conjunto Case files: [C12-13 & C116-13](#).

²¹⁷³ Republic of El Salvador. Legislative Assembly. [Access to Public Information Act, Decree No. 534](#).

²¹⁷⁴ Article 168 states: "The powers and duties of the President of the Republic include: (...) 7.- Providing the Legislative Assembly with the reports it requests, except in the case of secret military plans. The President of the Republic must inform the Legislative Assembly of any political negotiations that need to be kept confidential, so that the Legislative Assembly can be briefed on them in a closed session;"

²¹⁷⁵ Republic of El Salvador. Legislative Assembly. [National Defense Act](#) [*Ley de Defensa Nacional*]. Decree No. 948. October 3, 2002.

the Mexican nation from the threats and risks it faces”; “[p]reserving national sovereignty and independence and defending the national territory”; “[m]aintaining the constitutional order and strengthening democratic institutions of government”; “[m]aintaining the unity of the constituent parts of the Federation as set forth in Article 43 of the Constitution of the United Mexican States”; “[a]sserting the lawful defense of the Mexican State against other States or subjects of international law,” and “[p]reserving democracy, based on the economic, social, and political development of the country and its inhabitants.”²¹⁷⁶ According to the information received, the ambiguity of the concept of national security arising from the National Security Act has resulted in “very broad justifications for not providing information” related to the military budget, disappeared persons, crime victim statistics, and state actions related to anti-drug policies, among other matters.²¹⁷⁷

21. Another factor identified by the Office of the Special Rapporteur relates to the breadth of circumstances and categories in which information may be classified for national security reasons, and which are also often not defined in legislation. The government is thus given a wide margin of discretion to include information of public interest in these categories, preventing its disclosure.²¹⁷⁸

22. In **Argentina**, Article 16 of the National Intelligence Act [*Ley de Inteligencia Nacional*]²¹⁷⁹ provides that: “Intelligence activities and the personnel involved in them, as well as the documentation and data banks of intelligence agencies, shall be classified appropriately in the interests of domestic security, national defense, and the foreign affairs of the Nation. Access to that information shall be authorized case by case by the President of the Nation or the official to whom such power is expressly delegated, with the exceptions provided for in this law.” Article 16 *bis* (a) states that the classification of “secret” is “[a]pplicable to any information, document, or material which, if known by unauthorized personnel, could seriously affect the fundamental interests or vital objectives of the Nation, including its sovereignty and territorial integrity; constitutional order and state security; public order and the lives of citizens; the combat capability or security of the Armed Forces or their allies; the effectiveness or safety of law enforcement operations; the diplomatic relations of the Nation; and the specifically determined and well-founded intelligence activities of the agencies of the National Intelligence System.” Subparagraph (b) defines as “confidential” information “which, if known by unauthorized personnel, could partly affect the fundamental interests of the Nation or violate principles, plans, and operational methods of state authorities, including sovereignty and territorial integrity; constitutional order and state security; public order and the lives of citizens; the combat capability or security of the Armed Forces or their allies; the effectiveness or safety of law enforcement operations; the diplomatic relations of the Nation.” Argentine civil society has called attention to the fact that the grounds specified in the Act for the classification of information are vague and imprecise and give the intelligence system broad discretion. It has also noted that the National Intelligence Act establishes a minimum but not a maximum time limit for the declassification of information.²¹⁸⁰

²¹⁷⁶ United Mexican States. Official Gazette of the Federation. [National Security Act](#) [*Ley de Seguridad Nacional*]. December 26, 2005. Article 3. The law also identifies the following as threats to national security: (i) acts of espionage, sabotage, terrorism, rebellion, treason, genocide, against the country within the national territory; (ii) acts of foreign interference in national affairs which may be prejudicial to the State; (iii) acts that prevent the authorities from combating organized crime; (iv) acts intended to destroy the unity of the constituent parts of the Federation; (v) acts intended to hinder or block military or naval operations against organized crime; (vi) acts against aviation security; (vii) acts against diplomatic personnel; (viii) any act committed in furtherance of the illegal trafficking of nuclear materials, or chemical, biological, and conventional weapons of mass destruction; (ix) unlawful acts against shipping; (x) any act of financing terrorist actions and organizations; (xi) acts intended to hinder or block intelligence or counterintelligence activities; and (xii) acts intended to destroy or disable infrastructure that is strategic or essential for the provision of public goods or services. (*Cfr.*: Article 5).

²¹⁷⁷ IACHR. 156th Session. [Public Hearing: “Access to Information and National Security in the Americas”](#). October 20, 2015. [34:35 - 38:00].

²¹⁷⁸ IACHR. 156th Session. [Public Hearing: “Access to Information and National Security in the Americas”](#). October 20, 2015.

²¹⁷⁹ Argentine Republic. [Law 27.126, Federal Intelligence Agency](#) [*Agencia Federal de Inteligencia*]. Law No. 25.520, as amended. March 3, 2015.

²¹⁸⁰ IACHR. 156th Session. [Public Hearing: “Access to Information and National Security in the Americas”](#). October 20, 2015; CELS & ADC, information provided during the online consultation conducted by the Office of the Special Rapporteur for the preparation of this report. Under the National Intelligence Act, the time limit for declassifying information, documents, or materials must be at least 15 years from the decision that led to their security classification by any of the agencies of the National Intelligence System.

23. In **Colombia**, the Law on Transparency and the Right of Access to Public Information [*Ley de Transparencia y del Derecho de Acceso a la Información Pública Nacional*] (Law No. 1712 of 2014)²¹⁸¹ establishes “national defense and security” as one of the “circumstances” under which access to public information may be denied; however, these concepts are not defined in the legislation. According to the law, regulated entities must keep an updated index of the acts, documents, and information labeled classified or secret. The index must specify their titles, the reasons for classification, and the identification of the classification decision.²¹⁸²

24. Another barrier to access to security-related information is the fact that, while public information access laws often explicitly subject legal exceptions to so-called “harm tests,” some statutory provisions governing secrecy or confidentiality in the military or intelligence field are drafted to say that all information “related” to security or to the “nature” of the activity will be kept confidential, or that information will be classified simply because it is “held” by a particular entity. The legal provisions neither impose nor make explicit the requirement that the entity holding the information prove or base its denial on the actual, material, and imminent national security impact that would result from the disclosure of the requested information, thus establishing a generic and automatic confidentiality.

25. In **Colombia**, Article 33 of the Intelligence and Counterintelligence Act [*Ley sobre Inteligencia y Contrainteligencia*]²¹⁸³ provides that “[d]ue to the nature of the duties performed by the intelligence and counterintelligence agencies, their documents, information, and technical personnel shall be protected as confidential for a maximum of 30 years from the time the information is collected and will be treated as classified information.” These terms are vague and ambiguous and have been the subject of several public complaints by civil society organizations. It is also contrary to inter-American standards to establish that all documents held by intelligence agencies will be considered confidential and, therefore, to determine that a document is confidential by virtue of its belonging to a security agency rather than on the basis of its content. This provision also fails to consider the possibility of partial disclosure, with the appropriate redactions of information legitimately deemed confidential.²¹⁸⁴ Under the law, the classification may be extended for 15 years, “when its disclosure poses a serious domestic or external threat to national security or defense, when it involves information that would undermine international relations, when it relates to illegal armed groups, or when it endangers the personal safety of agents or sources.”²¹⁸⁵ Nevertheless, the Constitutional Court ruled that these provisions were enforceable.²¹⁸⁶

²¹⁸¹ Republic of Colombia. [Law 1712, creating the Law on Transparency and the Right of Access to Public Information and other provisions](#) [*Ley 1712 por la cual se crea la Ley de Transparencia y del Derecho de Acceso a la Información Pública Nacional y se dictan otras disposiciones*]. March 6, 2014.

²¹⁸² The Colombian Constitutional Court has held repeatedly that any limitations on access to information “must satisfy the principles of reasonableness and proportionality” ([Judgment C-274 of 2013](#)). The Court has also emphasized that access to information cannot be restricted simply on the grounds that it is a matter of national security, but rather that in each case it is necessary to “prove that such rights or interests would be seriously affected if certain information were disclosed, making it necessary to keep it confidential” ([Judgment C-491 of 2007](#)). According to the information available, the Constitutional Court has referred to the protection of national security or defense “as a fundamental undertaking of the States, which necessarily includes protecting the people’s fundamental rights” ([Judgment C-540 of 2012](#)) and has stated that national security includes “the defense of national integrity and the preservation of public order and peaceful coexistence,” as well as intelligence and counterintelligence actions aimed at “preventing threats such as terrorism and organized crime, and protecting vital interests of the Nation.” Information submitted by the *Grupo de Acciones Públicas* (GAP) of the Universidad del Rosario.

²¹⁸³ Republic of Colombia. [Law 1621 of 2013, issuing regulations to strengthen the legal framework to enable intelligence and counterintelligence agencies to carry out their constitutional and legal mission, and other provisions](#). April 17, 2013.

²¹⁸⁴ See oral presentation by *Fundación para la Libertad de Prensa* during the constitutionality review of the draft statute before the Constitutional Court.

²¹⁸⁵ See oral presentation by *Fundación para la Libertad de Prensa* during the constitutionality review of the draft statute before the Constitutional Court.

²¹⁸⁶ The Constitutional Court clarified, among other things, that: (1) in a democratic society, state authorities must be governed by the principle of maximum disclosure, which establishes a presumption that all information is accessible and subject to a limited system of exceptions designed to protect constitutional legal interests; (2) evidence must be provided that such rights or interests would be seriously affected if certain information were disclosed, making it essential to keep it confidential; (3) where the classification of information is appropriate, it should be temporary and the classification period should be reasonable and proportionate to the constitutional legal interests to be protected. Republic of Colombia. Constitutional Court of Colombia. [Judgment C-540 of 2012](#).

Lack of oversight of the classification of national security information and its consequences

26. The lack of clear processes for classifying information, in line with the guarantees set out in access to information laws, is another critical issue. Often, when regulated entities classify information as confidential for national security reasons, they misinterpret, misapply, and misrepresent the “harm to the public interest” test—or skip it altogether. The problems associated with providing the rationale for national security exceptions have also meant that security agencies have defied some of the decisions of national supervisory bodies and courts or have sought legal reforms that would exempt them from the oversight of the bodies that are supposed to guarantee transparency.²¹⁸⁷

27. **Colombia’s** Intelligence and Counterintelligence Act (Law 1621) has often been invoked “to keep information confidential even when it is requested by judicial bodies in the course of their investigations.”²¹⁸⁸ According to a study by the organization Dejusticia, “the various intelligence and counterintelligence agencies have simply resorted to an incomplete and partial interpretation of section 33 of the Intelligence and Counterintelligence Act to withhold many categories of information.”²¹⁸⁹ Accordingly, through an overly broad and groundless classification process, the intelligence community “imposes absolute secrecy for a lengthy period on all information, material, files, and data it produces, disregarding the fundamental right of citizen access to information that is not specifically, reasonably, and proportionately exempt.”²¹⁹⁰

28. In **Argentina**, the Access to Public Information Act²¹⁹¹ does not mention the term “national security.”²¹⁹² Article 8 of the Act states that “[r]egulated entities are exempt from providing information only in the following cases: (a) Information expressly classified as secret or confidential for defense or foreign policy reasons. Secrecy may in no case extend to information needed to evaluate the definition of the security, defense, and foreign affairs policies of the Nation; nor information whose disclosure does not pose a real and identifiable risk of significant harm to a legitimate interest linked to those policies (...).” According to the Agency for Access to Public Information, the Act does not establish procedures for the classification and declassification of information for national security reasons, as “[t]he management of requests for access to information is covered by Articles 5, 9, *et seq.* However, this refers to general rather than specific management in the area of national security. If an entity receives a request for information that covers national security-related matters, it must interpret the scope of the request, determine whether any exceptions apply, establish a redaction system for the partial provision information, or carry out the public interest test to decide which right prevails in the particular case.”²¹⁹³

29. Another example of this is the successive legal reforms adopted in **Uruguay** to exempt information generated by the intelligence community from the guarantees offered by the access to information law. In 2018, Parliament passed Law 19.696 on the “National State Intelligence System,” which contained regressive provisions on the right of access to public information.²¹⁹⁴ The legal reform excluded the intelligence bodies

²¹⁸⁷ The Chilean Transparency Council. [Acceso a la información y seguridad nacional: Una mirada internacional desde los Principios de Tshwane](#) [National Security and Access to Information: An International Perspective on the Tshwane Principles]. Transparencia y Sociedad. No. 3. November 2015.; Open Society Foundations/Open Society Justice Initiative. [The Global Principles on National Security and the Right to Information \(Tshwane Principles\)](#). June 12, 2013. Background and Rationale.

²¹⁸⁸ Open Society Justice Initiative. Additional information submitted for the public hearing held during the 156th Session. “Access to Information and National Security in the Americas” on October 20, 2015. Available for consultation in the archives of the Office of the Special Rapporteur.

²¹⁸⁹ Dejusticia. [Documentos Ideas para Construir la Paz. No 31. Acceso a los archivos de inteligencia y contrainteligencia en el marco del posacuerdo](#) [Documents on Peacebuilding Ideas. No 31. Access to Intelligence and Counterintelligence Files in the Post-Agreement Framework]. 2017, p. 69.

²¹⁹⁰ Dejusticia. [Documentos Ideas para Construir la Paz. No 31. Acceso a los archivos de inteligencia y contrainteligencia en el marco del posacuerdo](#) [Documents on Peacebuilding Ideas. No 31. Access to Intelligence and Counterintelligence Files in the Post-Agreement Framework]. 2017, pp. 71

²¹⁹¹ Argentine Republic. [Law 27.275. Right of Access to Public Information](#) [Ley 27.275. Derecho de Acceso a la Información Pública]. September 16, 2016. Entered into force on September 29, 2017.

²¹⁹² Agency for Access to Public Information [Agencia de Acceso a la Información Pública], information provided during the online consultation conducted by the Office of the Special Rapporteur for the preparation of this report.

²¹⁹³ Information provided during the online consultation conducted by the Office of the Special Rapporteur for the preparation of this report.

²¹⁹⁴ IACHR. [Annual Report 2018. Report of the Office of the Special Rapporteur for Freedom of Expression](#). Ch. II (Evaluation of the State of Freedom of Expression in the Hemisphere). OEA/SER/L/V/II Doc. 30 March 17, 2019, para. 997.

from the oversight of the Access to Public Information Unit, beyond the very broad parliamentary supervision created by the law itself. Article 29 provided that “[t]he background data, information, and records held by the bodies of the National State Intelligence System and their personnel, regardless of their position, shall be considered confidential and restricted, for all legal purposes, in accordance with Article 9 of Law No. 18,381 of October 17, 2008. In addition, any other background information of which the personnel of those bodies, for whatever reason, become aware in the course of their duties shall be deemed to be confidential and restricted.”²¹⁹⁵

30. A more recent legal reform, also in Uruguay, expanded the powers of the National Intelligence System within the Presidency of the Republic and enhanced the secrecy of information produced and systematized by this agency. It creates new categories of information such as “absolutely secret” and curtails existing guarantees for citizens to request and access information in this area. Under Article 125 of Law 19.889, “the acts, documents, records, activities, and any other material or inputs of the bodies that make up the State’s National Intelligence System, the dissemination of which may undermine international cooperation agreements on intelligence matters, the independence of the State from other states or international bodies, or relations with other states or international bodies, shall be considered secret. This classification will be made by the Director of the Ministry of Strategic State Intelligence, and the classified information will only be accessible upon the issuance of a reasoned order by the President of the Republic acting in the Council of Ministers.”²¹⁹⁶

31. Article 126 of that law states that “the information produced and systematized by the agencies of the National State Intelligence System is absolutely confidential. Such information may be accessed only by court order, and only if requested by the defense counsel of a person under criminal investigation, a suspect, or a defendant.” In a letter to the State, the Office of the Special Rapporteur noted its concern about the reform, given that a body under the authority of the Presidency of the Republic, and at the head of the State’s intelligence agencies—with broad powers to collect information—is automatically granted absolute secrecy for the information it collects and orders to be systematized, without the possibility for citizens, the media, or even lawmakers to request the declassification of such information when a compelling public interest is at stake or when fundamental rights may have been violated. The current wording of the law also makes it impossible for those denied access to information held by that agency to challenge its secrecy before a judicial authority.

32. These difficulties are often accentuated by the lack of independent oversight mechanisms to supervise security sector agencies, as well as by the controversy in some cases over the powers of supervisory bodies to adjudicate claims involving national security-based restrictions on the right of access to information imposed by security sector agencies.

33. In this regard, a controversy has arisen over the public release of the minutes of Chile’s National Security Council (COSENA)²¹⁹⁷ and the application of the Transparency and Access to Public Information Act [*Ley de Transparencia y Acceso a la Información Pública*] to COSENA.²¹⁹⁸ While the Council for Transparency

²¹⁹⁵ Eastern Republic of Uruguay. [Law 19696 of 2008, Approving and Regulating the National State Intelligence System](#) [Aprobación y Regulación del Sistema Nacional de Inteligencia del Estado]. October 29, 2008. During the parliamentary debate on this legislative initiative, the Center for Archives and Access to Public Information had warned that although the bill on the creation of the National Intelligence System sought to establish certain safeguards against the misuse of information collection and processing, it contained regulations that “are a step backwards in terms of the standards for protecting the right of access to public information.” According to civil society, the bill gives rise to a “generic confidentiality that may allow for the inclusion of information that, strictly speaking, would not cause harm if disclosed and could be in the public interest.” CAInfo. [Proyecto de ley de inteligencia puede ser un “retroceso” en los estándares de acceso a la información pública](#) [Intelligence Bill May Be a ‘Step Backwards’ in Access to Public Information Standards]. January 17, 2017.

²¹⁹⁶ Eastern Republic of Uruguay. [Law 19889 of 2020, Law of Urgent Consideration](#) [*Ley de Urgente Consideración*]. July 9, 2020. Articles 125 and 126.

²¹⁹⁷ A constitutional advisory body to the President of the Republic on national security issues.

²¹⁹⁸ See, e.g.: Republic of Chile. Council for Transparency [Council for Transparency]. [Rodrigo Orrego con Estado Mayor Conjunto. Case file: C566-18](#) November 15, 2018; [Catalina Gaete Salgado con Estado Mayor Conjunto. Case file: C2803-15](#) March 29, 2016; [Mauricio Sepúlveda González con Estado Mayor Conjunto. Case file: C2474-16](#) October 25, 2016. See also: Supreme Court, Third Chamber. *CDE – Fisco, Estado Mayor Conjunto contra Integrantes de la Sexta Sala de la Corte de Apelaciones de Santiago*, Case file: 9219-2017, November 29, 2017; Supreme Court, Third Chamber. *CDE- Fisco, Estado Mayor Conjunto contra Integrantes de la Sexta Sala de la Corte de Apelaciones de*

(CPLT) ordered the declassification of COSENA minutes that would not affect national security, the Joint Chiefs of Staff (ESMACO) has argued that COSENA is not considered a government agency and therefore access to information in its possession should not be governed by the Transparency and Access to Public Information Act. The Council for Transparency dismissed these arguments, stating that: (I) COSENA is part of the government, since it performs “public service” as a body responsible for advising the President of the Republic on national security matters and for performing the other duties assigned to it by the Constitution, all of which are eminently public; (II) it is an body composed of state authorities; and (III) it is publicly funded.

34. This controversy was litigated, and between November 2017 and March 2018, the Third Chamber of the Supreme Court (with a different composition) handed down two conflicting rulings on access to information and national security, affecting COSENA’s minutes from 1989 to 2012. The Joint Chiefs of Staff refused to turn over those minutes to two requesters. In addition, the Council for Transparency decided to deny the release of some minutes “on the grounds that their disclosure would undermine the security of the nation or the national interest,” but ordered “the release of most of them.”²¹⁹⁹ In a ruling issued on March 20, 2018, the Third Chamber of the Supreme Court reportedly decided to change its criteria regarding the Council’s authority to decide on the release of information,²²⁰⁰ and exempted COSENA from the Transparency Act, finding that the institution itself had to decide whether the minutes were public or confidential.²²⁰¹ Some of the records were reportedly made public as a result of the first judgment.

35. In the case of **Mexico**, civil society organizations have said that the concept of national security that emerges from the National Security Law is “very ambiguous,” and leads to, as mentioned above, “very broad justifications for not providing information.”²²⁰² The National Institute for Transparency, Access to Information, and Personal Data Protection (INAI), informed the Office of the Special Rapporteur that although the Transparency and Access to Public Information Act [*Ley General de Transparencia y Acceso a la Información Pública*] provides that the decisions of the oversight body “are binding on regulated entities, final, and unappealable,” the government’s legal advisor may file an appeal for review with the Supreme Court of Justice of the Nation if INAI’s decisions could potentially endanger national security.²²⁰³ This authority has been exercised on several occasions. It should also be noted that, in 2018, in an important regional precedent, the Supreme Court struck down the 2017 Domestic Security Act,²²⁰⁴ Article 9 of which

Santiago, Case file: 34129-2017, March 20, 2018. Available for consultation in the archives of the Office of the Special Rapporteur.

²¹⁹⁹ Universidad Diego Portales. Center for Human Rights. [Informe Anual sobre Derechos Humanos en Chile](#) [Annual Report on Human Rights in Chile]. 2018, p. 278; *Catalina Gaete Salgado con Estado Mayor Conjunto* Case file: C2474-16 October 25, 2016; *Mauricio Sepúlveda González con Estado Mayor Conjunto* Case file: C2803-15 March 29, 2016; *Mauricio Sepúlveda González con Estado Mayor Conjunto* Case file: C2474-16 October 25, 2016.

²²⁰⁰ IACHR. [Annual Report 2018. Report of the Office of the Special Rapporteur for Freedom of Expression](#). Ch. II (Evaluation of the State of Freedom of Expression in the Hemisphere). OEA/SER.L/V/II Doc. 30 March 17, 2019. Para. 279.

²²⁰¹ The Court based its decision on Article 107(3) of the Constitution, which says: “The minutes of the Council shall be public, unless otherwise determined by a majority of its members.” It stated that this provision came into force on August 26, 2005. Before that date, Article 96(2) of the Constitution had established that: “The decisions or opinions referred to in point (b) shall be made public or kept confidential, as determined by the Council on a case-by-case basis.” The Court stated that “the constitutional text has long provided for the way in which minutes, decisions, or opinions issued during COSENA sessions are to be treated with regard to their public or confidential nature.” Accordingly, it said that before the 2005 amendment, the framers of the Constitution gave COSENA the power to decide, on its own, whether the respective minutes were public or secret; since the amendment in question came into force, the text of the Constitution “is clear in that it favors openness over secrecy in Council meetings—a principle that is not absolute, however, and therefore allows for the possibility of keeping their content secret.” The Court thus held that “it is up to the National Security Council itself to determine whether the minutes taken at its meetings are public or confidential.” Maintaining that “the Council for Transparency is competent to decide on access to the information contained in the minutes of COSENA” “seriously” infringes the constitutional and legal norms that “exclude the National Security Council from those bodies or services for which the Council for Transparency is authorized to decide on the disclosure of information in its possession.” On the contrary, the constitutional provision “gives COSENA the exclusive power to decide on this matter, a fact that prevents a finding that the Council for Transparency has the authority to make decisions about this specific state entity,” said the Court. [Cfr: Supreme Court, Third Chamber. *CDE- Fisco, Estado Mayor Conjunto contra Integrantes de la Sexta Sala de la Corte de Apelaciones de Santiago*, Case file: 34129-2017, March 20, 2018. Available for consultation in the archives of the Office of the Special Rapporteur].

²²⁰² IACHR. 156th Session. [Public Hearing: “Access to Information and National Security in the Americas”](#). October 20, 2015. [34:35 - 38:00].

²²⁰³ INAI, information provided during the online consultation conducted by the Office of the Special Rapporteur for the preparation of this report. See: Article 157 of the Transparency and Access to Public Information Act of Mexico.

²²⁰⁴ United Mexican States. Presidency of the Republic. Internal Security Law [*Ley de Seguridad Interior*]. December 21, 2017. Repealed.

stipulated that information produced as a result of its application “shall be considered a matter of national security, under the terms of the applicable legal provisions.”

36. Over the past four years, civil society organizations have repeatedly reported to the IACHR various conflicts between laws that protect access to public information and laws on national security, intelligence, or records. The traditional tensions between access to public information and national security have been exacerbated by new regulations and intelligence practices aimed at tackling drug trafficking and organized crime in the region, as well as by the lack of independent oversight of security sector agencies. These factors—among others—have fostered a “high degree of secrecy” in the region that continues to characterize the workings of security and intelligence forces.²²⁰⁵

37. In **Argentina**, matters related to intelligence, domestic security, and national defense are regulated by three laws: the Intelligence Act (Law No. 25.520²²⁰⁶), the Domestic Security Act (Law No. 4.059), and the National Defense Act (Law No. 23.554), and their respective regulations.²²⁰⁷ The latter defines national defense as “the integration and coordinated action of all the forces of the Nation for the resolution of those conflicts that require the use of the armed forces, as a deterrent or operationally, to counter foreign aggression. Its purpose is to permanently ensure the sovereignty and independence of the Argentine Nation, its territorial integrity, and its capacity for self-determination, and to protect the life and freedom of its inhabitants.”²²⁰⁸ According to the information provided to the Office of the Special Rapporteur by the Center for Legal and Social Studies [*Centro de Estudios Legales y Sociales*] (CELS) in Argentina, the new Access to Public Information Act (Law No. 27.275) covers all three branches of government; nevertheless, “it is the interpretation of the Executive Branch” that intelligence activities “and the activities of the bodies of the national intelligence system in general, are not subject to the obligations arising from the Access to Public Information Act,” but rather are covered by the specific regulations to the Intelligence Act—thus disregarding the constitutional and conventional protection of the right of access to information.²²⁰⁹

Secrecy laws on matters related to national security

38. In **Honduras**, the Law for the Classification of Public Documents related to National Security and Defense, Decree 418-2013, entered into force in 2014.²²¹⁰ Under Article 3 of that law, “Matters, acts, contracts, documents, information, data, and objects whose disclosure to unauthorized persons could harm or jeopardize national security or defense, and the achievement of related objectives, may be declared Classified Matters.” The law gives the exclusive power to classify information to the National Defense and Security Council and specifies four possible levels of classification (information: “restricted, confidential, secret, and top secret”).²²¹¹ These different classification levels should be “based on the degree of protection required” according to a set of weighting factors that range from the potential “undesirable institutional effects” of disclosure to “exceptionally serious internal and external harm” to national security.²²¹² In 2015 the Honduran Institute of Access to Public Information issued a ruling ordering the amendment of the 2014 law and the repeal of certain articles.²²¹³ In that ruling, the Institute held that the Law for the Classification of Public Documents contains provisions that violate the constitution and the Access to Public Information Act, among other laws, “making national security an insurmountable obstacle to transparency, the exercise of the

²²⁰⁵ IACHR. 156th Session. [Public Hearing: “Access to Information and National Security in the Americas”](#). October 20, 2015.

²²⁰⁶ The provision was amended in 2015 by Law 27.126. See: Argentine Republic. Law 25.520. National Intelligence Act. [*Ley 25.520. Ley de Inteligencia Nacional*]. November 27, 2001.

²²⁰⁷ Information provided by *Centro de Estudios Legales y Sociales* (CELS).

²²⁰⁸ Argentine Republic Law 23.554. National Defense Act. [[Ley 23.554. Ley de Defensa Nacional](#)]. April 13, 1988.

²²⁰⁹ CELS, information provided during the online consultation conducted by the Office of the Special Rapporteur for the preparation of this report.

²²¹⁰ Republic of Honduras. *Law for the classification of public documents related to national security and defense, Decree 418-2013*. [*Ley para la clasificación de documentos públicos relacionados con seguridad y defensa nacional, Decreto 418-2013*]. January 24, 2014.

²²¹¹ Republic of Honduras. Law for the classification of public documents related to national security and defense, Decree 418-2013. [*Ley para la clasificación de documentos públicos relacionados con seguridad y defensa nacional, Decreto 418-2013*] [. January 24, 2014. Arts. 4, 5.

²²¹² Republic of Honduras. *Law for the classification of public documents related to national security and defense, Decree 418-2013*. [*Ley para la clasificación de documentos públicos relacionados con seguridad y defensa nacional, Decreto 418-2013*] [. January 24, 2014. Art. 4.

²²¹³ Institute for Access to Public Information. [Resolution No. SE-001-2015](#). July 28, 2015.

right of access to public information, accountability, and citizen participation in government.” The Institute considered that “jeopardizing the achievement of objectives” is a “highly ambiguous” definition that is “subject to the discretion of the authority that will determine the classification, which could lead to the concealment of acts of corruption and consequently undermine the transparency of government.” In 2016, the Committee for Freedom of Expression, *C-Libre*, challenged the constitutionality of the law in the Supreme Court. At the time of this writing, the case has reportedly not yet been decided.²²¹⁴

39. In **Peru**, civil society organizations informed the IACHR of major obstacles to access to public information based on Legislative Decree 1129 of December 6, 2012. In its original drafting, Article 12 of that decree provided that: “Resolutions, minutes, recordings, transcripts and, in general, any information or documentation generated on matters related to national security and defense, and those containing the deliberations conducted at the meetings of the National Security and Defense Council, are secret.”²²¹⁵ According to the information available, this legislative decree was amended in 2013 by Legislative Decree 1353, which reads as follows: “Resolutions, minutes, recordings, transcripts and, in general, any information or documentation generated on matters related to national security and defense, and those containing the deliberations conducted at the meetings of the National Security and Defense Council, are governed by the Transparency and Access to Public Information Act, with regard to their disclosure, public access, and exceptions, insofar as they are applicable.” The constitutionality of the legislative decree was challenged in 2013 by the People’s Ombudsperson, who alleged, *inter alia*, before the Constitutional Court that the executive branch had used Article 12 of Legislative Decree 1129 to strip away the right of any person to access public information on the National Defense System, regardless of whether it creates a risk to national security. In a June 2018 ruling, the Constitutional Court partially upheld the claim and declared unconstitutional the phrase “insofar as they are applicable” in the most recent version of the article. The decision stated that this expression “creates an exception, which is parallel to those exceptions regulated in the Constitution and the law of constitutional development, where there is only the mere discretion of the Council of Defense and National Security.” The Constitutional Court held that “[n]ational security, as a constitutional objective, must be protected not through general, vague, defective, or illegitimate exceptions, but through narrow exceptions that clearly and specifically identify the cases in which national security may be jeopardized, in which the security of persons, the risk to territorial integrity and the stability of the democratic system, as well as the respective intelligence and counterintelligence activities, among other things, are guaranteed—as they are under the Transparency and Access to Public Information Act.”²²¹⁶

40. Among the obstacles that remain in most countries in the hemisphere, it is possible to highlight that laws on secrecy, particularly those concerning national security or defense, have not been the subject of robust and participatory public discussion. Some states even still have provisions that were enacted during dictatorships, as in the case of **Chile**.²²¹⁷ In fact, Chile still has a set of laws establishing the secrecy of various subjects and documentary collections for alleged national security reasons, and even several secret legal provisions that continue to be applied under democratic rule.²²¹⁸ In 2016, the Office of the Special Rapporteur

²²¹⁴ During its on-site visit to Honduras in 2018, the IACHR took note of the fact that the executive branch had sent Congress a bill to amend the Law. The IACHR was informed by civil society organizations that despite introducing positive changes, the amendment leaves the executive branch with broad powers to restrict access to public information. IACHR. [Annual Report 2018. Report of the Office of the Special Rapporteur for Freedom of Expression](#). Ch. II (Evaluation of the State of Freedom of Expression in the Hemisphere). OEA/SER.L/V/II Doc. 30 March 17, 2019. Para. 689; Conexihon. July 19, 2018. [Ley de Secretos debe ser derogada, organizaciones de sociedad civil](#) [Secrecy Law should be repealed, say civil society organizations].

²²¹⁵ The original text of the Decree and the subsequent amendment have been taken from the ruling of the Constitutional Court. [Case file 00005-2013-PI/TC](#). June 19, 2018.

²²¹⁶ Republic of Peru. Constitutional Court. [Case file 00005-2013-PI/TC](#). Judgment of June 19, 2018.

²²¹⁷ Expert consultation meeting, December 3, 2018, Washington DC.

²²¹⁸ IACHR. Office of the Special Rapporteur for Freedom of Expression. [Informe especial sobre la situación de la libertad de expresión en Chile](#) [Special report on the situation of freedom of expression in Chile] OEA/Ser.L/V/II. CIDH/RELE/INF. 16/17. March 15, 2017. Para. 77. According to information provided by the Council for Transparency to the Office of the Special Rapporteur in 2016, Chile reportedly has 203 legal texts that are classified as secret for national security reasons and are not accessible to the general public. While most of these texts (which include laws, decrees with the force of law, and executive orders) were enacted during the 1973-1990 military dictatorship and would no longer be in force, two secret laws and one secret decree with the force of law were allegedly issued after the transition to democracy. According to the information presented by the Office of the Special Rapporteur in its report on the situation of freedom of expression in Chile, “for some 29% of the secret legal texts, there is no information on which to base even a preliminary determination of their subject matter.” The remaining 7% of the laws “are clearly associated with national defense and, more specifically, with the Armed

recommended that the State revise the laws that establish blanket secrecy for national security reasons and immediately make public those regulations whose text remains secret to this day on national security grounds.

B) Obstacles to access to information on human rights violations

41. As documented by the IACHR and its Office of the Special Rapporteur, access to information held by the State regarding serious human rights violations continues to be an enormous challenge when it comes to obtaining information to pursue the investigation of past human rights violations. The same holds true with respect to the current situation of many groups that are victims in cases of gender-based violence or violence affecting Afro-descendent groups and indigenous peoples.²²¹⁹ This also affects the rights to truth, justice, and effective reparation for such violations, as well as guarantees of non-repetition.

42. The inter-American bodies have established that obstacles persist in guaranteeing access to information related to serious human rights violations in Guatemala,²²²⁰ El Salvador,²²²¹ Bolivia,²²²² Uruguay,²²²³ and Brazil.²²²⁴ These obstacles reflect the States' resistance to facilitating access to information requested by victims of serious human rights violations and their families, the lack of open records, and the failure to provide information needed by the bodies in charge of investigating and prosecuting these acts. Disproportionate restrictions have reportedly been imposed on the grounds of protecting personal data contained in documents that are vitally important to establishing the truth. Requesters have also complained of the destruction of information and the lack of policies to ensure real and public access to state archives containing information on serious human rights violations.

43. The cases of **Guatemala** and **El Salvador** are typical examples of how the armed forces in various countries of the region have resisted providing access to military archives in the context of transitional justice processes and the search for truth. Thus, for example, Guatemalan society had access to the information collected in both the *Diario Militar* and the Historical Archives of the National Police thanks to leaks and academic research—not because of any voluntary state action to provide this data to the victims of the serious human rights violations that took place during the internal armed conflict.²²²⁵

44. **El Salvador's** Institute for Access to Public Information has received 23 complaints in the last 6 years against the Ministry of Defense for declaring “the non-existence” of information on military operations

Forces and the Public Order and Security Forces, their facilities, their funding, the purchase of military equipment and supplies, and the transfer of resources.”

²²¹⁹ In the [Report on Access to Information, Violence against Women and the Administration of Justice](#), the IACHR noted the existence of specific problems with regard to the availability, quality and integrity of public information on violence and discrimination against women. Among other problems, it identified the lack of comprehensive information on all forms of violence and discrimination in different State organs, the lack of production of comprehensive statistics from that information, and the absence of disaggregation of statistical information. In particular, the report mentions the case of Haiti, where obtaining statistics on violence is difficult because of the existence of rudimentary and uncoordinated data systems, and the case of Bolivia, where there is a disparity in the figures on violence between the various civil society organizations and State entities, particularly in relation to violence against indigenous and rural women. The integration of a National Data and Information Bank on Cases of Violence against Women (BANAVIM) in Mexico, which creates unique electronic files for each woman in a situation of violence, and the Cooperation Treaty between the National Council of Women and the National Institute of Statistics and Censuses (INDEC) of Argentina, implemented on September 11, 2012, in order to produce statistics on gender violence, were also highlighted. IACHR. [Report on Access to Information, Violence against Women and the Administration of Justice](#). OAS/Ser.L/V/II.154 Doc. 19, March 27, 2015, paras. 77-84.

²²²⁰ OSJI. Supporting document. 156th Session. [Public Hearing: “Access to Information and National Security in the Americas”](#). October 20, 2015; I/A Court H.R., Resolution. 12 Guatemalan cases. Supervision of compliance with judgement regarding the obligation to investigate, prosecute and, if applicable, punish those responsible for human rights violations [Resolución. 12 casos guatemaltecos supervisión de cumplimiento de sentencias respecto de la obligación de investigar, juzgar y, de ser el caso, sancionar a los responsables de las violaciones a los derechos humanos]. November 24, 2015. Paras. 127 *et seq.*

²²²¹ IACHR. [Public Hearing, 25 Years of the Truth Commission for El Salvador](#). February 27, 2018; IACHR. [Annex to Press Release 41/18](#). April 6, 2018.

²²²² IACHR. [Report No. 60/18](#). Case 12.709 Report on the Merits. Juan Carlos Flores Bedregal and Family. May 8, 2018.

²²²³ I/A Court H.R., [Case of Gelman v. Uruguay](#). *Merits and Reparations*. Judgment of February 24, 2011. Series C 221. Para. 312. Operative Paragraph 16.

²²²⁴ I/A Court H.R., [Case of Gomes Lund et al. \(“Guerrilha do Araguaia”\) v. Brazil](#). *Preliminary Objections, Merits, Reparations, and Costs*. Judgment of November 24, 2010. Series C No. 219.

²²²⁵ IACHR. [Case No. 12.590 José Miguel Gudiel Álvarez et al \(“Diario Militar”\) Guatemala](#). February 18, 2011.

during the armed conflict; the Institute recently ordered the reconstruction of the information.²²²⁶ The UN Human Rights Committee expressed concern about reports of the armed forces' resistance to allowing access to historical archives in connection with serious human rights violations.²²²⁷ The IACHR has followed these persistent obstacles with concern and has urged the Salvadoran State to comply with the recommendations of the Final Report of the Salvadoran Truth Commission, 25 years after its publication.²²²⁸

45. The destruction of information related to serious human rights violations is another recurrent obstacle. In 2017, *The New York Times* reported that in 2000 the Chilean Army Intelligence Directorate (DINE) had incinerated microfilms containing tens of thousands of documents pertaining to the main intelligence bodies of the military dictatorship (1973-1990), which had been produced by the National Intelligence Directorate (DINA) and its successor, the National Information Center (CNI).²²²⁹ The Council for Transparency condemned the destruction of records, microfilms, and documents handled by the former National Information Center, calling it “a serious violation of the right of access to information of all Chileans that reveals serious and reprehensible conduct on the part of those responsible for safeguarding public records that belong to all of society. It is a blow to Chile’s historical memory.”²²³⁰

46. Also in Chile, in December 2017, in a split decision, the Constitutional Chamber of the Supreme Court upheld the claim of the Commander-in-Chief of the Army against an *amparo* [petition for a constitutional remedy] decision of the Council for Transparency that had granted access to information about a list of people who had been members of the secret police during the dictatorship and who remained in the institution as civilian employees.²²³¹ The Chamber’s majority found that the release of such information could infringe on the constitutionally guaranteed rights of officials and their families, in particular their security, health, and privacy. According to the judgment, disclosure of the information could be “meant to publicly confront, rebuke, and castigate persons accused of human rights violations in order to discredit them in the eyes of the community.”²²³²

47. The decision raised concerns about the protection of the right of access to information and the right to truth. The Transitional Justice Observatory of the Diego Portales University Human Rights Center said that it was “extraordinary that fully lawful civic demonstrations against repressive practices are cited as a reason for not providing society with information about people who have a past linked to dictatorial repressive forces and are now in fact public employees who draw salaries from the State.”²²³³

48. In **Colombia**, there have been a number of reports that information illegally collected by the now-defunct Administrative Department of Security (DAS) in the course of spying on judges, journalists, opposition politicians, and human rights defenders was destroyed or concealed.²²³⁴ In every society, especially those in transition and those that have experienced the atrocities of war, access to information and

²²²⁶ Institute for Access to Public Information, information provided during the public consultation.

²²²⁷ UN. Human Rights Committee. Concluding observations on the seventh periodic report of El Salvador. CCPR/C/SLV/CO/7. 9 May 2018. Available at: https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/SLV/CO/7&Lang=Sp

²²²⁸ IACHR. Press Release. 74/18. *IACHR Urges El Salvador to Comply with the Recommendations from the Truth Commission’s Final Report, 25 Years after its Publication*. April 2, 2018.

²²²⁹ Universidad Diego Portales. Center for Human Rights. *Informe Anual sobre Derechos Humanos en Chile* [Annual Report on Human Rights in Chile]. 2018, p. 281; *The New York Times*. October 30, 2017. *Cómo los archivos en microfilme de la dictadura de Pinochet se hicieron humo* [How the microfilm archives of the Pinochet dictatorship went up in smoke].

²²³⁰ Republic of Chile. Council for Transparency. “*Marcelo Drago, presidente del CPLT: Destrucción de archivos en el Ejército atenta contra la memoria histórica de Chile*” [Marcelo Drago, president of the CPLT: Destruction of Army records threatens Chile’s historical memory], cited in: Universidad Diego Portales. Center for Human Rights. *Informe Anual sobre Derechos Humanos en Chile* [Annual Report on Human Rights in Chile]. 2018, pp. 281.

²²³¹ Transitional Justice Observatory, Universidad Diego Portales, Santiago de Chile. *Boletín informativo N° 44. Noviembre y diciembre 2017* [Newsletter No. 44, November - December 2017].

²²³² Republic of Chile. Supreme Court. Constitutional Chamber. *Case File 8109-2017*. December 5, 2017.

²²³³ Transitional Justice Observatory, Universidad Diego Portales, Santiago de Chile. *Boletín informativo N° 44. Noviembre y diciembre 2017* [Newsletter No. 44, November - December 2017].

²²³⁴ *El Tiempo*. March 14, 2019. *Investigan seis casos de destrucción de datos de inteligencia del DAS* [Six cases of destruction of DAS intelligence data investigated]; RCN Radio. January 30, 2019. *UN y víctimas piden a JEP proteger y hacer públicos archivos del DAS* [UN and victims ask JEP to protect and release DAS files]; *El Espectador/ Colombia* 2020. October 23, 2018. “*Es casi imposible que se hayan perdido archivos del DAS: director del Archivo General de la Nación*” [Director of the National Archives: “It is nearly impossible for DAS files to have been lost”].

the role of journalism are fundamental to the construction of memory and the search for truth. Hence, in recent years, Colombian civil society has repeatedly stressed the need to guarantee the right to information and access to public information as part of the implementation of the Final Agreement between the government and the Revolutionary Armed Forces of Colombia – People’s Army (FARC-EP), and the implementation of the various components of the Comprehensive System for Truth, Justice, Reparation and Non-Repetition.²²³⁵

49. On different occasions the Office of the Special Rapporteur has received information on the persistence of obstacles to access information in **Mexico** related to serious human rights violations.²²³⁶ The arbitrary use of personal data protection in historical archives and the use of national security exceptions have made it difficult to access information on serious past violations.²²³⁷ During their joint visit to the country in 2017, the UN and IACHR Special Rapporteurs for freedom of expression found that some documents that were not catalogued as historical documents had been classified as confidential for up to 70 years. In many of these cases, personal data protection was invoked to withhold or conceal the names of public officials and other information about abuses and serious human rights violations.²²³⁸

50. In addition, Mexico’s Ministry of National Defense (SEDANA) denied access to information on civilians killed, injured, and detained in more recent “confrontations” with the military and reportedly stopped documenting and disclosing these figures in 2014. In March 2019, INAI ordered partial access to the information and ordered the security agency to carry out an exhaustive search for this information.²²³⁹ Civil society pointed to the decision as a step in the right direction, albeit an “insufficient” one, since the information gap had to be filled by the obligation to “produce the information that, by virtue of their duties, powers, and functions, they should have in their possession.”²²⁴⁰ When the State has the obligation to preserve or collect information and then claims that it does not exist, it must attempt to recover and if possible reconstruct the lost or illegally removed information.²²⁴¹

51. In this scenario, guaranteeing access to military or security agency files on human rights and humanitarian law violations, as well as the need to establish special archival policies for the defense of human rights, continues to be a critical issue.²²⁴² The IACHR and its Office of the Special Rapporteur have also welcomed progress and best practices, such as the inclusion in various regional access to public information laws of clauses barring exceptions when the information requested is linked to the determination or investigation of violations of human rights or international humanitarian law. There have also been a variety

²²³⁵ See: Más Información Más Derechos. [¿Cuáles documentos son secretos en Colombia?](#) [What documents are secret in Colombia?]. July 31, 2014; Proyecto Antonio Nariño. [Los retos para el acceso a la información en la implementación del Acuerdo Final entre el gobierno y las Farc](#) [Access to information challenges in the implementation of the Final Agreement between the government and the FARC]. April 2017; Dejusticia. Documentos Dejusticia 31. [Acceso a los archivos de inteligencia y contrainteligencia en el marco del posacuerdo](#) [Access to intelligence and counterintelligence files within the framework of the post-agreement]. January 2017.

²²³⁶ IACHR. [Annual Report 2015. Report of the Office of the Special Rapporteur for Freedom of Expression](#), Ch. II (Evaluation of the State of Freedom of Expression in the Hemisphere). OEA/Ser.L/V/II. Doc. 48/15 December 31, 2015. Para. 933; IACHR. [Annual Report 2017. Report of the Office of the Special Rapporteur for Freedom of Expression](#), Ch. II (Evaluation of the State of Freedom of Expression in the Hemisphere). OEA/Ser.L/V/II. Doc. 210/17 December 31, 2017, paras. 895-896; IACHR. 161st session. [Public hearing “Right to Truth in Cases Involving Gross Human Rights Violations in Mexico”](#). March 17, 2017.

²²³⁷ Article 19. [Informe de cumplimiento: Obligaciones de transparencia relacionadas con violaciones y violaciones graves de derechos humanos](#) [Compliance Report: Transparency Obligations Related to Serious Human Rights Violations and Abuses]. April 2018.

²²³⁸ UN-IACHR. [Joint Report of the Special Rapporteur for Freedom of Expression of IACHR, Edison Lanza, and the United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, David Kaye, on their mission to Mexico](#), June 2018. Para. 57. See also: ARTICLE 19 Mexico and Central America Office, Ciudadanos por la transparencia, Comité Mexicano de Ciencias Históricas, Escuela Mexicana de Archivos, R3D, Organizaciones de la Red por la Rendición de Cuentas. [El “Acuerdo de transferencia de documentos históricos” debe asegurar la protección y efectiva apertura de documentos clave](#) [“Historical Document Transfer Agreement” must ensure the protection and effective disclosure of key documents]. March 1, 2019.

²²³⁹ United Mexican States. INAI. Resolution. Case file: RRA0030/19. March 6, 2019, pp. 45-49. Available at: <https://es.scribd.com/document/401932912/Recurso-de-revision-Inai-Sedena>

²²⁴⁰ Article 19. [SEDENA debe informar sobre civiles muertos, heridos y detenidos en “enfrentamientos” entre 2014 y 2018](#) [SEDENA must report on civilians killed, injured, and detained in “confrontations” between 2014 and 2018]. March 14, 2019.

²²⁴¹ IACHR. Office of the Special Rapporteur for Freedom of Expression. [The Inter-American legal framework regarding the right to access to information. Second edition](#). OEA/Ser.L/V/II. CIDH/RELE/INF. 9/12. March 7, 2011. Para. 110.

²²⁴² Meeting of experts convened by the Office of the Special Rapporteur for the preparation of this report. December 3, 2018, Washington DC.

of court decisions that have recognized the priority of the public interest over national security in the reporting of human rights violations.

52. For instance, **Peru's** Transparency and Access to Public Information Act (2002) provides that “classified information shall not include information relating to the violation of human rights or the Geneva Conventions of 1949 by any person under any circumstances.”²²⁴³ The Uruguayan Access to Public Information Act (2008), states that exceptions are not applicable “where the information requested relates to human rights violations or is relevant to investigating, deterring, or preventing human rights violations.”²²⁴⁴ Guatemala’s Access to Public Information Act (2008) provides that “[i]n no case may information relating to the investigation of violations of fundamental human rights or crimes against humanity be classified as confidential or restricted.”²²⁴⁵ Brazil’s Access to Public Information Act (2011) specifies that access to information necessary for the judicial or administrative protection of human rights may not be denied and that information or documents concerning conduct involving human rights violations by public officials or on the orders of public authorities may not be restricted.²²⁴⁶ In Colombia, the Law on Transparency and the Right of Access to Public Information (2014) provides that “[t]he exceptions to access to information contained” in that law “do not apply in cases of human rights violations or crimes against humanity, and in all cases the rights of the victims of such violations must be protected.”²²⁴⁷ Mexico’s Transparency and Access to Public Information Act (2015) states that “[i]nformation related to serious human rights violations or crimes against humanity cannot be classified as restricted under national law or the international treaties to which the Mexican State is a party.”²²⁴⁸ The Argentine Law on the Right of Access to Public Information (2016) stipulates that exceptions “shall not apply in cases of gross human rights violations, genocide, war crimes, or crimes against humanity.”²²⁴⁹

53. In **the United States**, in more than 30 years of work, the National Security Archive has filed over 50,000 requests under the U.S. Freedom of Information Act (FOIA). These requests have brought to light more than 10 million pages of once-secret government documents.²²⁵⁰ This information has been key to documenting many of the serious human rights violations in Latin America and to the work of truth commissions and transitional justice processes in different countries.

54. In addition, years of litigation by the American Civil Liberties Union (ACLU) succeeded in getting the government to publish over 100,000 pages of documents on the abuse and torture of detainees by the CIA and the Department of Defense.²²⁵¹ Organizations such as the Electronic Frontier Foundation (EFF) and the Electronic Privacy Information Center (EPIC) have also filed numerous FOIA requests and actions to demand

²²⁴³ Republic of Peru. Transparency and Access to Public Information Act. [*Ley de Transparencia y Acceso a la Información Pública*] Law No. 27806. August 2, 2002. Art. 15-C final paragraph (Article added by [Art. 1 of Law No. 27927](#), published on 04-02-2003.)

²²⁴⁴ Eastern Republic of Uruguay. *Law 18.381. Right of Access to Public Information* [*Ley 18.381. Derecho de Acceso a la Información Pública*] October 7, 2008. Art. 12.

²²⁴⁵ Republic of Guatemala. [Access to Public Information Act. Decree Number 57- 2008](#). [*Ley de Acceso a la Información Pública. Decreto Número 57-2008*]. October 22, 2008. Article 24.

²²⁴⁶ Brazil. *Palácio do Planalto/Presidency of the Republic. Law 12.527*. November 18, 2011.

²²⁴⁷ Republic of Colombia. Unified Regulatory Information System. [Ley de Transparencia y del Derecho de Acceso a la Información Pública Nacional de Colombia \(Ley 1712 de 2014\)](#) [*Law on Transparency and the Right of Access to Public Information of Colombia (Law 1712 of 2014)*]. March 6, 2014. Art. 21.

²²⁴⁸ United Mexican States. Transparency and Access to Public Information Act of Mexico. [*Ley General de Transparencia y Acceso a la Información Pública de México*] []. May 4, 2015. Art. 5.

²²⁴⁹ Argentine Republic. Law 27275. Right of Access to Public Information. [*Ley 27275. Derecho de acceso a la información pública*]. September 14, 2016. Art. 8.

²²⁵⁰ National Security Archive. [30+ Years of freedom of information action. Accomplishments](#). (Last retrieved on 2/28/2019).

²²⁵¹ ACLU. [ACLU V. DOD - FOIA case for records referenced in or implicated by the declassification of the Senate torture report](#); ACLU. [CIA releases dozens of torture documents in response to ACLU lawsuit](#). June 14, 2016; Vice News. June 14, 2016. [Barbaric Conditions That Led to a Detainee's Death Are Laid Bare in CIA Reports](#); The New York Times. June 15, 2016. [Detainees Describe C.I.A. Torture in Declassified Transcripts](#); The Washington Post. June 14, 2016. [Newly released CIA files expose grim details of agency interrogation program](#). See also: IACHR. Press Release 152/14. [IACHR Calls on the United States to Investigate and Punish Acts of Torture Established in the Senate Intelligence Committee Report](#). December 12, 2014.

transparency about government surveillance programs and to help the public learn more about government activities in this area.²²⁵²

55. The Office of the Special Rapporteur reiterates that “In the event of gross violations of human rights, the information these archives can bring together has an undeniable value and is indispensable not only for pushing investigations forward but also for preventing these deviant actions from being repeated.”²²⁵³

C) Obstacles to access to information on state surveillance activities

56. Major challenges remain in the Americas in terms of transparency and access to information about surveillance activities carried out by states.²²⁵⁴ This is clear from the many cases of illegal spying on human rights defenders, journalists, judges, and members of the opposition that have taken place in various countries in the hemisphere, even under democratically elected governments—for instance, the major disclosures in 2013 on the scope and operation of U.S. National Security Agency surveillance programs, and the 2015 leaks of Hacking Team documents, which revealed that some governments had acquired surveillance software known as Galileo or DaVinci, among others.²²⁵⁵

57. According to allegations made public in 2017 by a group of Mexican civil society organizations, between January 2015 and August 2016, Pegasus software was allegedly used in Mexico to spy on journalists, human rights defenders, lawyers, and politicians.²²⁵⁶ In October 2017, the organization R3D filed a request for information from the PGR, asking to access the public version of all available documentation on the procurement of software and computer tools developed by the firm NSO Group and its subsidiaries—information that according to the agency’s response had been classified for national security reasons.²²⁵⁷ In a more recent case, the Colombian magazine *Semana* published an exposé on the profiling of journalists and human rights defenders by certain segments of the Colombian Army.²²⁵⁸

58. In short, the obstacles to access to public information and the persistent lack of transparency surrounding the surveillance activities of the States of the Americas are often barriers to accountability for their lawful use, which should follow the requirements of prior judicial authorization and be strictly necessary and proportionate to the legitimate interests the State seeks to protect.

59. Access to public information laws require states to proactively publish key information related to the activities and workings of government agencies, but these obligations do not include specific transparency regarding the use of state surveillance measures.²²⁵⁹ In Mexico, Article 70, section XLVII of the

²²⁵² See: EFF. [Transparency](#); EFF. [The Long Fight to Stop Mass Surveillance: 2018 in Review](#). January 1, 2019; EFF. [EFF Asks Court to Require FBI Disclosure of National Security Letter Recipients Who've Been Released From Gag Orders](#). December 19, 2018; The Washington Post. December 13, 2014. [Records reveal why court shut down Bush-era spy program](#); Columbia University / Columbia Global Freedom of Expression. [Electronic Privacy Information Center v. Department of Justice Criminal Division](#). March 4, 2015. EIPC. Open Government Project, available at: https://epic.org/open_gov/

²²⁵³ IACHR. [Annual Report 2009. Report of the Office of the Special Rapporteur for Freedom of Expression](#). Ch. IV. The Right of Access to Information. OEA/Ser.L/V/II CIDH/RELE/INF. 1/09. December 30, 2009. Para. 77.

²²⁵⁴ IACHR. Office of the Special Rapporteur for Freedom of Expression. [Freedom of Expression and the Internet](#). OEA/Ser.L/V/II. CIDH/RELE/INF. 11/13. December 31, 2013. Para. 130; IACHR. Office of the Special Rapporteur for Freedom of Expression. [Standards for a free, open, and inclusive Internet](#). OEA/Ser.L/V/II CIDH/RELE/INF.17/17. March 15, 2017.

²²⁵⁵ IACHR. Office of the Special Rapporteur for Freedom of Expression. July 21, 2015. Press Release 80/15. [The Office of the Special Rapporteur Expresses Concern Over the Acquisition and Implementation of Surveillance Programs by States of the Hemisphere](#).

²²⁵⁶ See: IACHR. Office of the Special Rapporteur for Freedom of Expression. July 12, 2017. Press Release R96/17. [Office of the Special Rapporteur expresses concern over alleged spying targeting journalists and human rights defenders in Mexico and urges the State to conduct a thorough and independent investigation](#).

²²⁵⁷ According to the ruling, the request for information processed through the National Transparency Platform [*Plataforma Nacional de Transparencia*] (PNT) established: “For the 2000-2017 period: public versions of any documents related to the procurement of any software, license, or technological tool developed by NSO Group or any of its affiliates and/or subsidiaries including public versions of the respective contracts are requested” (3rd conclusion of law. 1.).

²²⁵⁸ IACHR. Office of the Special Rapporteur for Freedom of Expression. May 21, 2020. Press Release 118/20. [IACHR and its Special Rapporteurship for Freedom of Expression Urge the State of Colombia to Conduct a Diligent, Timely, and Independent Investigation into Allegations of Illegal Surveillance Against Journalists, Justice Operators, Human Rights Defenders, and Political Leaders](#).

²²⁵⁹ The Office of the Special Rapporteur was only aware of the existence of such provisions in the Mexican Transparency and Access to Public Information Act.

Transparency and Access to Public Information Act²²⁶⁰ mandates the disclosure of certain information on surveillance measures ordered by the authority and requested from telecommunication licensees and Internet service or application providers; however, in practice, the information available is insufficient and compliance with the Act is very limited.²²⁶¹

60. In the case of **Argentina**, referring to the challenges of active transparency, civil society organizations have said that the access to information law “does not impose any positive obligation on the executive branch regarding the transparency of intelligence or national security information; in fact, it may even facilitate the opposite.”²²⁶² While the Domestic Security and National Defense Act and its regulatory decree do not contain specific provisions on active transparency, agreements with other states that include national security and intelligence issues among their provisions have been made public. They are officially published on the website of the Foreign Ministry.

61. As for passive transparency in the area of enforcement, understood as the State’s obligation to respond to requests for information, the obstacles have been no less significant. However, the Office of the Special Rapporteur notes the case law developments in this area. For example, Mexico’s Supreme Court of Justice ruled that the Center for Investigation and National Security must report the number of people or telephone devices that were wiretapped in 2014.²²⁶³ The judgment declared that “not all the information about the Center’s activity related to the interception of private communications should be considered confidential under the National Security Law.”²²⁶⁴ The decision arose from an appeal for review filed by the Office of Legal Counsel to the Federal Executive against the decision of the National Institute for Transparency, Access to Information and Data Protection (INAI).

62. In the malware surveillance case mentioned above, the organization R3D filed an appeal for review challenging the INAI decision that ordered the Office of the Attorney General of the Republic (PGR) to turn over a public version of a contract entered into in 2014 with the Pegasus surveillance company. At the time of its ruling, INAI considered that the technical specifications of the software and the methods of operation should be classified as confidential.²²⁶⁵ It further stated that the “[n]ames, positions, and signatures of those individuals who were involved in the procurement and who have privileged, concrete, and specific knowledge

²²⁶⁰ The cited provision states: “Article 70. The federal and state laws shall require regulated entities to make information available to the public and keep it updated in the respective electronic media, according to their powers, attributes, functions, or corporate purpose, as appropriate, pertaining, at a minimum, to the topics, documents, and policies specified below: (...) XLVII For statistical purposes, the list of requests to telecommunication licensees and Internet service or application providers for the interception of private communications, access to communications records, and the real-time geographic location of communications equipment, containing exclusively the purpose, duration, and legal grounds of the request, as well as, if applicable, a reference to the appropriate judicial authorization (...)”

²²⁶¹ Red en Defensa de los Derechos Digitales [Digital Rights Defense Network]. R3D. Information provided during the online consultation conducted by the Office of the Special Rapporteur for the preparation of this report.

²²⁶² CELS, information provided during the public consultation. In this regard, the organization noted that the Access to Public Information Act establishes the general principle of active transparency but stressed that the exceptions to the right of access to public information provided for in Article 8 of this regulation will apply where appropriate. “The State hides behind these exceptions so as not to take an active role in the dissemination of this type of information, except in relation to management outcomes that it chooses to show.”

²²⁶³ Supreme Court of Justice. Appeal for review regarding national security as provided for in the Transparency and Access to Public Information Act 1/2016. Judgment of December 5, 2016. Para. 28. available at: <http://www2.scjn.gob.mx/consultatematica/paginaspub/detallepub.aspx?asuntoid=202248>

²²⁶⁴ Supreme Court of Justice. Appeal for review regarding national security as provided for in the Transparency and Access to Public Information Act 1/2016. Judgment of December 5, 2016. Para. 22. available at: <http://www2.scjn.gob.mx/consultatematica/paginaspub/detallepub.aspx?asuntoid=202248>.

²²⁶⁵ According to the abovementioned ruling, INAI’s resolution stated that [disclosing] the software’s technical specifications and methods of operation could create a potential risk or threat to national security: “insofar as it would publicize technology or equipment that is useful in generating intelligence, this being understood as the knowledge obtained from the collection, processing, dissemination, and use of information for the investigation and prosecution of organized crime. Thus, since there are parts that describe the procured good [software], its maintenance, and updating, as well as technical aspects of the system called ‘Pegasus 500’ related to its operation, it is clear that it contains technical specifications, operating procedures, and information on the maintenance of technological equipment used by the government—information that is protected by the confidentiality under analysis, since its public disclosure would undermine national security.” [Eighth District Judge for Administrative Matters in Mexico City. Judgment in *amparo* proceeding 592/2018 of December 13, 2018. 3rd conclusion of law. 5. Available at: <https://es.scribd.com/document/395959163/Sentencia-Pegasus> (Retrieved on 3/14/2019)].

about [the] procedures, methods, technical specifications, technology, and equipment used for intelligence production should be protected.”²²⁶⁶

63. In December 2018, the Eighth District Judge for Administrative Matters in Mexico City overturned the above-cited INAI ruling that allowed the PGR to deny access to information about the acquisition of Pegasus malware, as well as the technical specifications of the equipment and procedures related to its use.²²⁶⁷ The court found that “[t]he INAI ruling that the technical specifications and operating methods of the Pegasus software were confidential on the grounds of ‘national security’ is unconstitutional, as INAI failed to recognize that information related to serious human rights violations and acts of corruption should not be classified as confidential.”²²⁶⁸ It further stated that “[t]he relevance of the information requested would provide more evidence of whether institutions, public resources, and the State apparatus in general are being used for clearly unlawful purposes such as hacking ordinary citizens to obtain all their private information without a court order.”²²⁶⁹ Finally, the court stressed that “in a constitutional state, the concept of national security is equivalent to the security of the members of society and the lawful protection of democratic institutions.”²²⁷⁰

D) Obstacles to access to information on the budget and expenditures of intelligence agencies.

64. According to the information available, the actual possibility of accessing information on confidential funds or expenditures through which part of the budgets of intelligence agencies are executed remains very limited. It is important to note that secrecy or confidentiality cannot cover all the activities of intelligence agencies.

65. In 1997, the Federation of American Scientists filed a FOIA complaint against the Central Intelligence Agency (CIA). This lawsuit resulted in the declassification and publication of the total intelligence budget for the first time in 50 years.²²⁷¹

66. In the case of **Argentina**, the Federal Intelligence Agency (AFI) has refused to provide information on the management of confidential funds. AFI reportedly said that “all [of the Agency’s] information” is confidential and that the access to information law does not apply to it.²²⁷² The Citizens’ Initiative for Intelligence System Oversight (ICCIS) contends that there is no democratic oversight of intelligence activities in the country “unless the rationale for the secrecy under which AFI and the rest of the national intelligence system operates is redefined. Therefore, it is essential to repeal Decree 656/2016 and establish new public rules on the scope of secrecy, specifying who can order it, under what terms, and how the declassification of

²²⁶⁶ According to the abovementioned ruling, INAI’s resolution stated in this regard that “to reveal the names, positions, and signatures of the public servants with operational functions who participated in the procurement of the software in question and who have technical knowledge about it, would pose a risk to their safety, health, and life, as they could be subject to attack by criminals in retaliation for operations carried out against them, obstructing the functions carried out by that entity.” [Eighth District Judge for Administrative Matters in Mexico City. Judgment in *amparo* proceeding 592/2018 of December 13, 2018. 3rd conclusion of law. 5. Available at: <https://es.scribd.com/document/395959163/Sentencia-Pegasus> (Retrieved on 3/14/2019)].

²²⁶⁷ Eighth District Judge for Administrative Matters in Mexico City. Judgment in *amparo* proceeding 592/2018 of December 13, 2018. Available at: <https://es.scribd.com/document/395959163/Sentencia-Pegasus> (Retrieved on 3/14/2019); R3D. [R3D gana amparo para que documentos sobre Pegasus sean considerados información pública](#) [R3D wins *amparo* suit for Pegasus documents to be considered public information]. December 20, 2018. Aristegui Noticias. December 18, 2018. [Juez “tumba” resolución del INAI sobre el programa espía Pegasus](#) [Judge strikes down INAI resolution on Pegasus spyware].

²²⁶⁸ Eighth District Judge for Administrative Matters in Mexico City. Judgment in *amparo* proceeding 592/2018 of December 13, 2018. Considerando Noveno. II, pp. 37. Available at: <https://es.scribd.com/document/395959163/Sentencia-Pegasus> (Retrieved on 3/14/2019).

²²⁶⁹ Eighth District Judge for Administrative Matters in Mexico City. Judgment in *amparo* proceeding 592/2018 of December 13, 2018, pp. 63. Available at: <https://es.scribd.com/document/395959163/Sentencia-Pegasus> (Retrieved on 3/14/2019).

²²⁷⁰ Eighth District Judge for Administrative Matters in Mexico City. Judgment in *amparo* proceeding 592/2018 of December 13, 2018, pp. 83. Available at: <https://es.scribd.com/document/395959163/Sentencia-Pegasus> (Retrieved on 3/14/2019).

²²⁷¹ Federation of American Scientists. [FAS Sues CIA for Intelligence Budget Disclosure](#). May 19, 1997; [FAS Wins FOIA Lawsuit on Intelligence Budget Disclosure!](#) October 15, 1997.

²²⁷² Information provided by el CELS, as part of the online consultation conducted by the Office of the Special Rapporteur. See also: Saba, R. [Acceso a la información y seguridad nacional](#) [Access to information and national security], in Estudios en derecho a la información, No. 3, January-June 2017, Legal Research Institute of the UNAM.

information can be obtained.”²²⁷³ According to the information available at the close of this report, through Resolution 2019-46-APN-AAIP, the Agency for Access to Public Information reportedly asked the Federal Intelligence Agency to report on its classification of information and the basis for doing so.

E) Absence of public information access laws and systematic restrictions on the right to freedom of expression and information

67. In the 2006 case of *Claude Reyes v. Chile*, the Inter-American Court of Human Rights emphasized that under Article 2 of the American Convention, states have a duty to take the necessary measures to guarantee the rights protected in the Convention. This entails eliminating rules and practices that violate those rights, as well as issuing rules and developing practices that lead to effective compliance with those guarantees. In particular, this means that regulations governing restrictions on access to information under state control must comply with conventional criteria. Although there has been significant progress in this area, as described at the beginning of this report, the enactment of access to public information laws is not a consistent reality in the hemisphere.

68. In this regard, for example, as noted by the Office of the Special Rapporteur in its recent special report on the situation of freedom of expression in **Cuba** (2018), the country still lacks rules to guarantee citizens the right of access to public information, which is a fundamental tool for citizens to participate in decisions that concern them, to monitor the performance of government functions, and to protect other fundamental rights. According to the report, Decree Law No. 199 of 1999 establishes a System for the Security and Protection of Official Information that severely restricts the ability of journalists and members of the general public to access information produced or held by the State. The decree law and the Ministry of the Interior’s “Regulations on the Security and Protection of Official Information” of December 26, 2000 provide the legal basis for the protection of official government information and establish, *inter alia*, the competent authority in this area (Ministry of the Interior), as well as the procedures for handling official information, including its classification and declassification. Classified official information is also protected by provisions of the Criminal Code. In addition, most ministries and government agencies do not have press offices, do not issue news bulletins, and only hold press conferences on their own initiative and on topics of their choosing.²²⁷⁴

69. The violation of the right of access to information in **Venezuela** is also serious, and has been aggravated by the weakening of democratic institutions.²²⁷⁵ In its report entitled Democratic Institutions, Rule of Law, and Human Rights in Venezuela (2018) the IACHR noted that in the last decade the National Assembly and the executive branch “have issued dozens of regulations establishing vague and ambiguous exceptions to access to public information.” Some of these regulations, such as Presidential Decree No. 458, granted broad powers to the Strategic Center for Homeland Security and Protection (CESPPA),²²⁷⁶ to designate as “confidential, classified, or restricted any information, fact, or circumstance handled by [that entity] that is of strategic interest for the Security of the Nation [...]”

70. The decree law of the Central Bank of Venezuela (2015) authorizes the bank’s board of directors, “when requested by the National Executive, [to] temporarily suspend the publication of information for the period during which there is an ongoing domestic or foreign situation that poses a threat to national security and the economic stability of the Nation.” It further establishes that for the duration of domestic or foreign circumstances that threaten national security and the economic stability of the nation, the Bank may agree with the executive branch on “a framework for the provision of information” regarding the performance of

²²⁷³ ICCIS. [¿Hay salida para la crisis del sistema de inteligencia? Propuestas ICCIS 2019](#) [Is there a way out of the intelligence system crisis? ICCIS 2019 Proposals].

²²⁷⁴ IACHR. Office of the Special Rapporteur for Freedom of Expression. [Special report on the situation of freedom of expression in Cuba](#). OEA/SER.L/V/II CIDH/RELE/INF.21/18 October 31, 2018. Para. 61.

²²⁷⁵ IACHR. [Democratic institutions, the rule of law and human rights in Venezuela](#). OEA/Ser.L/V/II. Doc. 209 December 31, 2017. Para. 328.

²²⁷⁶ Decentralized body of the Office of the Presidency in charge of “streamlining the flow of information” on “Security, Defense, Intelligence, Domestic Order, and Foreign Affairs.”

the national economy, the level of international reserves, and economic measures taken.”²²⁷⁷ According to the information received by the Office of the Special Rapporteur while preparing this report, the failure of national courts to protect the right of access to public information has been a constant in recent years.²²⁷⁸

Chapter III – THE RIGHT OF ACCESS TO INFORMATION AND THE NATIONAL SECURITY EXCEPTION

A) *General and specific principles governing limitations based on national security reasons.*

71. In previous reports, the IACHR and its Office of the Special Rapporteur for Freedom of Expression have comprehensively addressed the guiding principles, scope, and content of the fundamental right of access to public information held by the State, as well as the admissibility of strict and exceptional limitations.²²⁷⁹ However, given their complexity and specificity, this report systematizes and reviews these principles, which are applied specifically to the competing interests between access to information and the protection of national security interests.

72. Following the inter-American standards on the right of access to information and the release of the Tshwane Principles, the Office of the Special Rapporteur presents a set of principles aimed at providing certainty and strengthening the protection of the right of access to public information related to national security and to the operation and activities of security sector agencies in the region’s countries. In view of the obstacles outlined above, this set of principles can serve as a guide for the States of the Americas in the review and implementation of legal provisions that strike an appropriate balance between the right of access to information and the safeguarding of legitimate national security interests.

73. First, the Office of the Special Rapporteur wishes to emphasize that security sector entities, being public bodies, are subject to the same rule of law and accountability as any other public institution. In a democratic society, no information can be excluded *a priori* from potential public scrutiny, but it is vitally important to ensure that reasoned consideration is given to each individual case.

74. The inter-American instruments establish that access to public information should always be governed by the *principle of maximum disclosure*, whereby the right of access to information is the rule and secrecy is the exception. As the Office of the Special Rapporteur has noted, this principle, and the principle of *good faith*,²²⁸⁰ are guiding principles for the right of access to public information under the inter-American legal framework and should therefore be properly interpreted and applied by security sector bodies.²²⁸¹

75. According to the case law of the Inter-American Court of Human Rights, in a democratic society it is essential that state authorities “are governed by the principles of good faith and maximum disclosure,”²²⁸² so that all information held by the State is presumed to be public and accessible, subject to a limited regime of

²²⁷⁷ IACHR. [Democratic institutions, the rule of law and human rights in Venezuela](#). OEA/Ser.L/V/II. Doc. 209 December 31, 2017. Para. 329.

²²⁷⁸ Information provided by Transparency Venezuela and *Espacio Público* as part of the consultation conducted by the Office of the Special Rapporteur for Freedom of Expression.

²²⁷⁹ IACHR. Office of the Special Rapporteur for Freedom of Expression.. [Specialized Supervisory Bodies for the Right to Access to Public Information](#). OEA/Ser.L/V/II. CIDH/RELE/INF. 14/16. 2016; [The Right to Access to Information in the Americas: Inter-American Standards and Comparison of Legal Frameworks](#). OEA/Ser.L/V/II. CIDH/RELE/INF.7/12 December 30, 2011; and [The Inter-American legal framework regarding the right to access to information. Second edition](#). OEA/Ser.L/V/II. CIDH/RELE/INF. 9/12. March 7, 2011. Second edition published in 2012.

²²⁸⁰ “To guarantee the effective exercise of the right of access to information, it is crucial that those bound to guarantee this right act in good faith; that is, that they ensure the strict application of the right, provide the necessary measures of assistance to petitioners, promote a culture of transparency, contribute to making public administration more transparent, and act with due diligence, professionalism, and institutional loyalty. They must take the actions necessary to serve the general interest and not betray the people’s confidence in State administration” IACHR. Office of the Special Rapporteur for Freedom of Expression. [The Inter-American legal framework regarding the right to access to information. Second edition](#). OEA/Ser.L/V/II. CIDH/RELE/INF. 9/12. March 7, 2011. Para. 15.

²²⁸¹ IACHR. Office of the Special Rapporteur for Freedom of Expression. [The Inter-American legal framework regarding the right to access to information. Second edition](#). OEA/Ser.L/V/II. CIDH/RELE/INF. 9/12. March 7, 2011. Para. 8.

²²⁸² I/A Court H.R., [Case of Claude Reyes et al. v. Chile](#). *Merits, Reparations and Costs*. Judgment of September 19, 2006. Series C No. 151. Para. 92.

exceptions.²²⁸³ The Model Inter-American Law on Access to Public Information also provides that government authorities may refuse access to information “only” in circumstances that are legitimate and strictly necessary in a democratic society, based on the standards and case law of the inter-American system.²²⁸⁴

76. Second, as established by the inter-American bodies, the concept of national security must be interpreted within the limits of “just demands of the general welfare in a democratic society”, in line with Article 32 of the American Convention and various decisions of the inter-American system.²²⁸⁵ This rule is necessary to ensure an appropriate balance between the right to information and the protection of legitimate national security interests, and imposes an absolute limit on the State’s ability to restrict the right of access to information to certain categories of information in which there is an overriding public interest, such as information about serious human rights violations.²²⁸⁶

77. Finally, under Article 13(2) of the American Convention, exceptions limiting the right of access to information must meet a three-part test containing three basic conditions: (1) they must have been defined clearly and precisely by a law, in the formal and material sense; (2) they must pursue one of the legitimate aims specified by the American Convention (i.e., to ensure respect for the rights or reputation of others, to protect national security, public order, public health, or morals); and (3) they must be necessary in a democratic society to achieve the compelling aims pursued, which requires proof that the limitation is strictly proportional to that aim, and suitable for its achievement.²²⁸⁷

78. It follows that, when applying a restriction to the right of access to public information, not only the requirements of legality and the protection of a legitimate aim must be met, but also the requirements of necessity and proportionality. The necessity of the measure will be met when the limitation is not only conducive to achieving the intended goal, but also imperative. This means that among several options for accomplishing the legitimate aim, the one least restrictive to the right to seek and receive information must be chosen from all the possible alternatives.²²⁸⁸ Moreover, whoever decides the confidentiality of information must not only demonstrate that the disclosure of the information effectively threatens to cause substantial harm to that legitimate aim, but also weigh that the harm to the interest protected by the exception is greater than the public interest in the information.²²⁸⁹ Likewise, the regime of exceptions must set a reasonable time limit and, once it has expired, the information must be available for public consultation; the restriction may only be kept in place as long as there is a real and objective risk that the disclosure of the information would undermine one of the legally protected interests covered by Article 13(2) of the Convention.²²⁹⁰

79. The Inter-American Court of Human Rights has held that restrictions on the right of access to state-held information “without respecting the provisions of the Convention (...) creates fertile ground for discretionary and arbitrary conduct by the State in classifying information as secret, reserved or confidential, and gives rise to legal uncertainty concerning the exercise of this right and the State’s powers to limit it.”²²⁹¹

²²⁸³ I/A Court H.R., *Case of Gomes Lund et al. (“Guerrilha do Araguaia”) v. Brazil*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 24, 2010. Series C No. 219. Para. 230.

²²⁸⁴ OAS. Model Inter-American Law on Access to Public Information. [Resolution AG/RES 2607 \(XL-O/10\)](#). June 8, 2010. Art. 40.

²²⁸⁵ IACHR, final written arguments in Case 11.552, Julia Gomes Lund et al. (Guerrilha do Araguaia) v. Brazil, June 21, 2010. Para. 75; Report No. 116/10 (Merits), Case 12.590, José Miguel Gudiel Álvarez et al. (“Diario Militar”), Guatemala, February 18, 2011. Para. 455; Report No. 117/10 (Merits), Case 12.343, Edgar Fernando García et al., Guatemala, February 9, 2011. Para. 147; Complaint to the Inter-American Court of Human Rights in Case 11.324, Narciso González Medina v. Dominican Republic, May 2, 2010. Para. 159.

²²⁸⁶ I/A Court H.R., *Case of Gomes Lund et al. (“Guerrilha do Araguaia”) v. Brazil*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 24, 2010. Series C No. 219. Para. 202.

²²⁸⁷ IACHR. [Annual Report 2009. Report of the Office of the Special Rapporteur for Freedom of Expression](#). Ch. III (Inter-American Legal Framework of the Right to Freedom of Expression). OEA/Ser.L/V/II. Doc. 51. December 30, 2009. Para. 68.

²²⁸⁸ I/A Court H.R., *Case of Gomes Lund et al. (“Guerrilha do Araguaia”) v. Brazil*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 24, 2010. Series C. No. 219. Para. 229.

²²⁸⁹ IACHR. Office of the Special Rapporteur for Freedom of Expression. [The Inter-American legal framework regarding the right to access to information. Second edition](#). OEA/Ser.L/V/II. CIDH/RELE/INF. 9/12. March 7, 2011. Para. 53; OAS. Model Inter-American Law on Access to Public Information. [Resolution AG/RES 2607 \(XL-O/10\)](#). June 8, 2010. Art. 44.

²²⁹⁰ IACHR. Office of the Special Rapporteur for Freedom of Expression. [The Inter-American legal framework regarding the right to access to information. Second edition](#). OEA/Ser.L/V/II. CIDH/RELE/INF. 9/12. March 7, 2011, paras. 53 -54.

²²⁹¹ I/A Court H.R., *Case of Claude Reyes, et al.* Merits, Reparations and Costs. Judgment of September 19, 2006. Series C No. 151. Para. 98.

80. Based on the standards developed below, and as outlined in the Tshwane Principles, “[n]o restriction on the right to information on national security grounds may be imposed unless the government can demonstrate that: (1) the restriction (a) is prescribed by law and (b) is necessary in a democratic society (c) to protect a legitimate national security interest; and (2) the law provides for adequate safeguards against abuse, including prompt, full, accessible, and effective scrutiny of the validity of the restriction by an independent oversight authority and full review by the courts”.²²⁹²

Exceptional nature of national security limitations

81. The right of access to public information protects the right of every person to access information held by public authorities, including information relating to national security. On an exceptional basis, access to this information may be restricted under clear and precise exceptions set out in the law, provided that they are necessary in a democratic society to safeguard legitimate national security interests. National security interests are favored in practice when society is properly informed about the activities of the State, including those carried out to safeguard national security.²²⁹³

82. These fundamental principles have been reflected in the laws passed at the national level for the protection of the right of access to information. In this regard, for example, Article 4 of **Colombia’s** Law on Transparency and the Right of Access to Public Information states that “[a]ccess to information may only be restricted in exceptional cases.” It adds that exceptions “shall be limited and proportional, shall be provided for by law or by the Constitution, and shall be consistent with the principles of a democratic society,” and it explicitly mentions the principle of “maximum disclosure”.²²⁹⁴ Article 1 of **Argentina’s** Access to Information Law also expressly provides for the exceptional nature of limitations, stating that “limits to the right of access to public information should be exceptional, established in advance as stipulated in (the) law, and formulated in clear and precise terms; the responsibility for proving the validity of any restriction on access to the information lies with the entity from which the information is requested.”²²⁹⁵ Article 7 of Mexico’s Transparency and Access to Public Information Act provides that “in the application and interpretation” of the Act “the principle of maximum disclosure shall prevail (...) affording individuals the broadest possible protection at all times.” Article 105 provides that “[r]egulated entities shall apply the exceptions to the right of access to information in a restrictive and limited manner” and “shall demonstrate their origin. Regulated entities shall have the burden of proving the rationale for any denial of access to information that is based on the updating of any of the specified grounds for confidentiality.”²²⁹⁶

Legal establishment of clear and precise exceptions based on national security reasons

83. The rules for the admissibility of restrictions on the right of access to public information apply to all the constituent elements of freedom of expression.²²⁹⁷ In this regard, it is important to consider the Inter-American Court’s definition in Advisory Opinion OC-6/86, according to which the expression “laws” does not mean any legal norm, but rather general normative acts passed by the constitutionally established and democratically elected legislature, under the procedures prescribed by the constitution, tied to the general welfare.

²²⁹² Open Society Foundations/Open Society Justice Initiative. [The Global Principles on National Security and the Right to Information \(Tshwane Principles\)](#). June 12, 2013. Principle 3.

²²⁹³ UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression and the Special Rapporteur for Freedom of Expression of the IACHR. December 21, 2010. [Joint Statement on Wikileaks](#); Open Society Foundations/Open Society Justice Initiative. [The Global Principles on National Security and the Right to Information \(Tshwane Principles\)](#). June 12, 2013.

²²⁹⁴ Republic of Colombia. Unified Regulatory Information System. [Law on Transparency and the Right of Access to Public Information of Colombia \(Law 1712 of 2014\)](#). [*Ley de Transparencia y del Derecho de Acceso a la Información Pública Nacional de Colombia (Ley 1712 de 2014)*]. March 6, 2014. Art. 21.

²²⁹⁵ Argentine Republic. [Law 27275. Right of Access to Public Information](#). [*Ley 27275. Derecho de acceso a la información pública*]. September 14, 2016. Art. 8.

²²⁹⁶ United Mexican States. [Transparency and Access to Public Information Act of Mexico](#). [*Ley General de Transparencia y Acceso a la Información Pública de México*]. April 16, 2015. Art. 5.

²²⁹⁷ IACHR. [Annual Report 2009. Report of the Office of the Special Rapporteur for Freedom of Expression](#). Ch. III (Inter-American Legal Framework of the Right to Freedom of Expression). OEA/Ser.L/V/II. Doc. 51. December 30, 2009. Para. 64.

84. The law must be “accessible, unambiguous, drawn narrowly and with precision so as to enable individuals to understand what information may be withheld, what should be disclosed, and what actions concerning the information are subject to sanction.”²²⁹⁸ The national law should “define national security precisely and indicate clearly the criteria which should be used in determining whether or not information can be declared secret, so as to prevent abuse of the label ‘secret’ for purposes of preventing disclosure of information which is in the public interest.” The laws should also set out clearly which officials are entitled to classify documents as secret and should also set overall limits on the length of time documents may remain secret. Such laws should be subject to public debate.²²⁹⁹

85. States must therefore clearly and precisely define legitimate national security interests in their legislation. The definition should note that the concept of national security needs to be interpreted through a democratic lens. Exceptions must be regulated according to the principle of maximum disclosure, and they must be truly exceptional. Finally, when the exceptions are defined, they must be subject to specific terms and conditions in each case, so that the law makes clear that information cannot be withheld from the public domain indefinitely.

86. The Tshwane Principles are also a helpful guide for states to implement the necessary measures when it comes to protecting national security “in a manner consistent with a democratic society.”²³⁰⁰ Principle 9 presents a set of limited categories of information to which the authorities may temporarily restrict access, if strictly necessary to protect legitimate national security interests, and only if such restrictions comply with all the other Principles.²³⁰¹ Legislation should also require the publication of categories of information which should be proactively disclosed, as well as those for which there is a strong presumption in favor of disclosure (See Principle 10 of the “Tshwane Principles”).

87. The need for a strict proportionality test means that no information can be excluded *a priori* from public scrutiny simply because it is held by or relates to a national security agency, or because it falls within a

²²⁹⁸ Open Society Foundations/Open Society Justice Initiative. [The Global Principles on National Security and the Right to Information \(Tshwane Principles\)](#). June 12, 2013. Principle 3. a.

²²⁹⁹ UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media and the OAS Special Rapporteur for Freedom of Expression. December 6, 2004. [Joint Declaration on Access to Information and on Legislation Regulating Secrecy](#).

²³⁰⁰ Open Society Foundations/Open Society Justice Initiative. [The Global Principles on National Security and the Right to Information \(Tshwane Principles\)](#). June 12, 2013. Principle 2. C.

²³⁰¹ Principle 9 states: “(a) Public authorities may restrict the public’s right of access to information on national security grounds, but only if such restrictions comply with all of the other provisions of these Principles, the information is held by a public authority, and the information falls within one of the following categories:

(i) Information about on-going defense plans, operations, and capabilities for the length of time that the information is of operational utility.

Note: The phrase “for the length of time that the information is of operational utility” is meant to require disclosure of information once the information no longer reveals anything that could be used by enemies to understand the State’s readiness, capacity, or plans.

(ii) Information about the production, capabilities, or use of weapons systems and other military systems, including communications systems.

Note: Such information includes technological data and inventions, and information about production, capabilities, or use. Information about budget lines concerning weapons and other military systems should be made available to the public. See Principles 10C(3) & 10F. It is good practice for states to maintain and publish a control list of weapons, as encouraged by the Arms Trade Treaty as to conventional weapons. It is also good practice to publish information about weapons, equipment, and troop numbers.

(iii) Information about specific measures to safeguard the territory of the State, critical infrastructure, or critical national institutions (*institutions essentielles*) against threats or use of force or sabotage, the effectiveness of which depend upon secrecy.

Note: “Critical infrastructure” refers to strategic resources, assets, and systems, whether physical or virtual, so vital to the State that destruction or incapacity of such resources, assets, or systems would have a debilitating impact on national security.

(iv) Information pertaining to, or derived from, the operations, sources, and methods of intelligence services, insofar as they concern national security matters; and;

(v) Information concerning national security matters that was supplied by a foreign state or inter-governmental body with an express expectation of confidentiality; and other diplomatic communications insofar as they concern national security matters.

Note: It is good practice for such expectations to be recorded in writing. Note: To the extent that particular information concerning terrorism, and counter-terrorism measures, is covered by one of the above categories, the public’s right of access to such information may be subject to restrictions on national security grounds in accordance with this and other provisions of the Principles. At the same time, some information concerning terrorism or counterterrorism measures may be of particularly high public interest: see e.g., Principles 10A, 10B, and 10H(1).”

certain category of information.²³⁰² In addition, states must ensure that any decision regarding classification can be reviewed by the supervisory bodies for the right of access to public information. The role of these technical bodies is key to controlling this type of information list and its implementation, as well as to ensuring the availability of suitable and effective judicial remedies so that those requesters who are denied access to information that they believe should be public can challenge the denial in court.²³⁰³ The courts are called upon to play a fundamental role in guaranteeing the right of access to information and to exercise conventional and constitutional control over the rules that limit access to information.

88. Finally, it is important to ensure that laws regulating restrictions on the right of access to information are subject to public debate. In case of discrepancies or conflicts of law, the access to information law should prevail over all other legislation.²³⁰⁴

Legitimate aim, necessity, and proportionality

89. The protection of national security is one of the legitimate aims for which Article 13(2) of the American Convention authorizes the limitation of the right of access to information as long as all requirements are met. Neither the Convention nor the Covenant on Civil and Political Rights defines the concept of national security. The IACHR has reiterated that this concept cannot be interpreted indiscriminately, but must be done from a democratic perspective, which, for example, can never allow for secrecy about serious human right violations such as torture or the forced disappearance of persons.²³⁰⁵

90. The Commission has established that it would be unacceptable, for instance, to consider the protection of “national security” a legitimate state objective under the criteria of the so-called “national security doctrine,” which underpinned a repressive policy adopted by various authoritarian regimes in Latin America in the 1970s and 1980s.²³⁰⁶ The IACHR has interpreted this concept restrictively, distinguishing it from matters strictly related to public order and public security, and rejecting its use to justify the criminalization of migration.²³⁰⁷ In this regard, the Office of the Special Rapporteur emphasizes that when the concept of national security is used to limit the right of access to information, it must be interpreted in a manner consistent with the human rights obligations of states,²³⁰⁸ and should not be based on an idea of national security that is incompatible with a democratic society.²³⁰⁹

²³⁰² Open Society Foundations/Open Society Justice Initiative. [The Global Principles on National Security and the Right to Information \(Tshwane Principles\)](#). June 12, 2013. Principle 5.a.

²³⁰³ Specialized Supervisory Bodies for the Right to Access Public Information. OAS/Ser.L/V/II. CIDH/RELE/INF.14/16. 2016. Paras. 10 and 54 to 59.

²³⁰⁴ UN Special Rapporteur on The Promotion and Protection of the Right to Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media and the OAS Special Rapporteur on Freedom of Expression. December 6, 2004. [Joint Declaration on Access to Information and on Legislation Regulating Secrecy](#).

²³⁰⁵ IACHR. Office of the Special Rapporteur for Freedom of Expression. [The Inter-American legal framework regarding the right to access to information. Second edition](#). OEA/Ser.L/V/II. CIDH/RELE/INF. 9/12. March 7, 2011. Para. 87.

²³⁰⁶ IACHR. Informe No. 116/10 (Merits), Case 12.590, José Miguel Gudiel Álvarez et al. (“Diario Militar”), Guatemala, February 18, 2011. Para. 455.

²³⁰⁷ For example, in the report “Human Rights Situation of Refugee and Migrant Families and Unaccompanied Children in the United States of America” (2015), the Commission shared the view of the UN Special Rapporteur on the Human Rights of Migrants that “irregular entry or stay should never be considered criminal offences: they are not per se crimes against persons, property, or national security” [IACHR. [Human Rights Situation of Refugee and Migrant Families and Unaccompanied Children in the United States of America](#). OAS/Ser.L/V/II.155 Doc. 16 July 24, 2015, paras. 61-62]. Also, in its report “Citizen Security and Human Rights” (2009), the Commission stressed the need for states in the region to enact domestic legislation that draws a clear distinction between national defense and public security functions [IACHR. [Report on Citizen Security and Human Rights](#). OEA/Ser.L/V/II. Doc. 57. December 31, 2009]. The Commission noted that “[w]ithin the region, it is sometimes suggested—or even carried out directly—that military troops take over internal security based on the argument that violence or criminal acts are on the rise,” and maintained that “arguments of this type ‘confuse the concepts of public security and national security, when there is no doubt that the level of ordinary crime, however high this may be, does not constitute a military threat to the sovereignty of the State’” [IACHR. December 4, 2017. [Press Release 200-2017. IACHR Expresses Concern regarding Draft Law on Internal Security in Mexico](#)].

²³⁰⁸ American Convention on Human Rights. Arts. 1, 2.

²³⁰⁹ IACHR. Office of the Special Rapporteur for Freedom of Expression. [Informe especial sobre la situación de la libertad de expresión en Chile](#) [Special report on the situation of freedom of expression in Chile] OEA/Ser.L/V/II. CIDH/RELE/INF. 16/17. March 15, 2017. Para. 82.

91. The Tshwane Principles define “legitimate national security interest” as “an interest the genuine purpose and primary impact of which is to protect national security, consistent with international and national law.” Thus, a national security interest will not be legitimate when, for example, its real objective or main effect is to prevent governments or officials from being exposed for wrongdoing or to conceal information about human rights violations.²³¹⁰

92. In addition to being provided for by law and serving a legitimate aim, limitations on the right of access to information must comply with the principles of necessity, suitability, and proportionality. Indeed, the limitation must be necessary in a democratic society to satisfy a compelling public interest. Among the options for accomplishing the compelling objective, the one least restrictive of the protected right should be chosen. The restriction must: (i) be conducive to the attainment of the objective; (ii) be proportionate to the interest that justifies it; and (iii) interfere to the least extent possible with the effective exercise of the right. With regard to the proportionality requirement, the IACHR has asserted that any restriction to access to information held by the State, in order to be compatible with the Convention, must overcome a three-part proportionality test.²³¹¹ Thus it has stated that the restriction: (a) must be related to a legitimate aim that justifies it; (b) must be demonstrated that the disclosure of the information effectively threatens to cause substantial harm to this legitimate aim; and (c) must be demonstrated that the harm to the objective is greater than the public’s interest in having the information.²³¹²

93. When public authorities resort to a restriction based on national security grounds, it is neither sufficient nor conclusive that they simply assert “that there is a risk of harm; the authority is under a duty to provide specific, substantive reasons to support its assertions.”²³¹³ The burden of demonstrating the legitimacy of any restriction rests with the public authority seeking to withhold information.²³¹⁴

94. Therefore, when classifying information in practice, in order to lawfully limit access to certain information under an exception that has been provided for by law to protect national security under the requirements and conditions set out above, the authority in charge (i) must establish, justify, prove, and state that the information in question falls within the grounds provided for by law, i.e., it must be verified and determined that the information meets the legal definition of the rule that allows for the restriction; and (ii) must substantiate and demonstrate that disclosing the information poses a real and identifiable risk of significant harm to a legitimate national security interest and that this risk outweighs the public interest in its disclosure.²³¹⁵

95. The general guidelines on classification and declassification of information, as well as the preparation of public versions (hereinafter, “the General Guidelines for the Classification and Declassification of Information”), adopted by the National Council of Mexico’s National System of Transparency, Access to

²³¹⁰ Open Society Foundations/Open Society Justice Initiative. [The Global Principles on National Security and the Right to Information \(Tshwane Principles\)](#). June 12, 2013, p. 14.

²³¹¹ Which involves performing a so called “harm test”. For example, the general guidelines adopted in Mexico for the classification and declassification of information, as well as for the preparation of public versions, define the harm test and the public interest test in the following terms: “Harm test: The well-founded and reasoned argument that must be made by regulated entities in order to prove that the disclosure of information would harm a legally protected interest and that the harm that would be caused by releasing the information outweighs the interest served by its disclosure.” It also defines: “Public interest test: The arguments and reasoning of the supervisory bodies that, through a balancing exercise, prove that the benefit of disclosing the confidential information requested or sought outweighs the invasion of individual rights resulting from its disclosure.” See, Consejo Nacional del Sistema Nacional de Transparencia, Acceso a la Información Pública y Protección de Datos Personales de México. Lineamientos Generales en materia de Clasificación y Desclasificación de la Información, así como para la Elaboración de Versiones Públicas [National Council of the National System for Transparency, Access to Information and Protection of Personal Data of Mexico. General Guidelines for the Classification and Declassification of Information, and for the Preparation of Public Versions]. ACUERDO CONAIP/SNT/ACUERDO/EXT18/03/2016-03. Published on the Official Gazette of the Federation on April 15, 2016. Second provision.

²³¹² IACHR. Office of the Special Rapporteur for Freedom of Expression. [The Inter-American legal framework regarding the right to access to information. Second edition](#). OEA/Ser.L/V/II. CIDH/RELE/INF. 9/12. March 7, 2011. Para. 53.

²³¹³ Open Society Foundations/Open Society Justice Initiative. [The Global Principles on National Security and the Right to Information \(Tshwane Principles\)](#). June 12, 2013. Principle 4. c; d.

²³¹⁴ Open Society Foundations/Open Society Justice Initiative. [The Global Principles on National Security and the Right to Information \(Tshwane Principles\)](#). June 12, 2013. Principle 4. a.

²³¹⁵ Open Society Foundations/Open Society Justice Initiative. [The Global Principles on National Security and the Right to Information \(Tshwane Principles\)](#). June 12, 2013. Principles 3, 11.

Public Information, and Protection of Personal Data provide that, to apply the harm test, “[t]he relevant paragraph and, where appropriate, the applicable grounds under Article 113 of the Act must be cited, linking it to the specific guidelines of this law and, where appropriate, the legal basis for the confidential status of the information.” They additionally state that “[b]y weighing the conflicting interests, the regulated entities must demonstrate that disclosing the requested information would create a risk of harm, and they must prove that the risk exceeds the public interest protected by the restriction.”²³¹⁶

96. According to these guidelines, the regulated entity “[m]ust prove the link between the disclosure of the information and the harm to the legally protected interest in question” [and] “[s]pecify the objective reasons why publicly releasing the information would cause harm, identifying a real, demonstrable, and identifiable risk.” In addition, “[i]n justifying the classification, the regulated entity must prove the circumstances of the time, place, and manner of the harm,” and “[s]hould choose the exception that is least restrictive to access to information, ensuring that it is suitable and proportionate to the protection of the public interest, and interfering as little as possible with the effective exercise of the right of access to information.”²³¹⁷

97. Scholarly works in this area have noted that “harm” means a detrimental effect. For the release of certain information to be regarded as having caused harm, it must have led to an outcome that could reasonably be said to have undermined a legally protected interest. “Specificity” means the possibility of identifying the harmful effect or result so that, if the harm alleged as grounds for non-disclosure is very vague or ambiguous, the reasonable expectation of the harm test is not met. Likewise, the harm must be present or reasonably foreseeable in the immediate aftermath of the disclosure of the information. If the harm to national security does not coincide, then the nexus is lost and the claim is no longer reasonable.²³¹⁸

98. When restrictions are imposed on the right of access to information, they should be subject to review or appeal to the supervisory body and the courts. As stated in the Tshwane Principles, in exercising judicial oversight the courts must be able to independently assess whether the public authority has properly invoked grounds to justify the limitation, the nature of any harm claimed by the public authority, its likelihood of occurrence, and the public interest in disclosure.²³¹⁹

Supremacy of the public interest

99. According to the inter-American case law, “for the individual to be able to exercise democratic control, the State must guarantee access to the information of public interest that it holds. By permitting the exercise of this democratic control, the State encourages greater participation by the individual in the interests of society.”²³²⁰ Some information may fall into the category of national security, but there is an overriding public interest in its disclosure. This could be the case, for instance, where sensitive military information exposing corruption in the armed forces must be made public. Although at first glance this

²³¹⁶ Consejo Nacional del Sistema Nacional de Transparencia, Acceso a la Información Pública y Protección de Datos Personales de México. [Lineamientos Generales en materia de Clasificación y Desclasificación de la Información, así como para la Elaboración de Versiones Públicas](#) [National Council of the National System for Transparency, Access to Information, and Personal Data Protection of Mexico. General Guidelines for the Classification and Declassification of Information, and for the Preparation of Public Versions]. ACUERDO CONAIP/SNT/ACUERDO/EXT18/03/2016-03. Published on the Official Gazette of the Federation on April 15, 2016. Thirty-third provision.

²³¹⁷ Consejo Nacional del Sistema Nacional de Transparencia, Acceso a la Información Pública y Protección de Datos Personales de México. [Lineamientos Generales en materia de Clasificación y Desclasificación de la Información, así como para la Elaboración de Versiones Públicas](#) [National Council of the National System for Transparency, Access to Information, and Personal Data Protection of Mexico. General Guidelines for the Classification and Declassification of Information, and for the Preparation of Public Versions]. ACUERDO CONAIP/SNT/ACUERDO/EXT18/03/2016-03. Published on the Official Gazette of the Federation on April 15, 2016. Thirty-third provision.

²³¹⁸ Contreras, Pablo (2014), *Secretos de Estado. Transparencia y Seguridad Nacional* [State Secrets. Transparency and National Security]. (Thomson Reuters). Chapter II. La seguridad de la Nación como causal de reserva de información pública. 3. Presupuestos jurisprudenciales para la limitación del derecho de acceso a la información pública [National security as a reason for keeping public information confidential. 3. Legal requirements for limiting the right of access to public information].

²³¹⁹ Open Society Foundations/Open Society Justice Initiative. [The Global Principles on National Security and the Right to Information](#) [Tshwane Principles]. June 12, 2013. Principle 3, 27.

²³²⁰ I/A Court H.R., [Case of Claude Reyes et al. v. Chile](#). *Merits, Reparations and Costs*. Series C No. 151. Judgment of September 19, 2006. Para. 87.

disclosure might appear to weaken national defense, it would in fact strengthen it by helping to combat corruption within the armed forces.²³²¹

100. The Office of the Special Rapporteur has acknowledged that the appropriate balance between the public interest in the disclosure of information and the protection of legitimate national security interests is not an easy task.²³²² For the purposes of protecting freedom of expression and the circulation of information in the public interest, the Court has considered the public interest to include “opinions and statements on matters of which society has a legitimate interest to be informed, in order to be aware of anything that bears on the performance of the State or impacts on general interests or rights, or of anything having significant consequences.”²³²³

101. According to the Tshwane Principles, “information of public interest” refers to information “that is of concern or benefit to the public, not merely of individual interest and whose disclosure is ‘in the interest of the public,’ for instance, because it is useful for public understanding of government activities.”²³²⁴ In seeking to determine whether the public interest in disclosure outweighs the risk of actual and identifiable harm to a legitimate national security interest, consideration should be given to whether “disclosure could reasonably be expected to (a) promote open discussion of public affairs, (b) enhance the government’s accountability, (c) contribute to positive and informed debate on important issues or matters of serious interest, (d) promote effective oversight of expenditure of public funds, (e) reveal the reasons for a government decision, (f) contribute to protection of the environment, (g) reveal threats to public health or safety, or (h) reveal, or help establish accountability for, violations of human rights or international humanitarian law.”²³²⁵

Information about which there is a strong presumption or overriding public interest in favor of disclosure

102. Certain categories of information are of particular public interest because of their importance to the process of democratic oversight and the rule of law. As set out in the Tshwane Principles, the following categories of information should be disclosed proactively rather than classified for national security reasons; certain other categories are subject to a strong presumption in favor of disclosure.

i. Information on violations of human rights and international humanitarian law

103. There is no legitimate national security interest that justifies classifying information about serious human rights violations as confidential or secret. As the IACHR has pointed out in numerous cases involving serious human rights violations, “[i]n the framework of a criminal proceeding, especially when it involves the investigation and prosecution of illegal actions attributable to the security forces of the State, there is a possible conflict of interests between the need to protect official secret, on the one hand, and the obligations of the State to protect individual persons from the illegal acts committed by their public agents and to investigate, try, and punish those responsible for said acts, on the other hand. [...] [P]ublic authorities cannot shield themselves behind the protective cloak of official secret to avoid or obstruct the investigation of illegal acts ascribed to the members of its own bodies.”²³²⁶

²³²¹ Mendel, T. *Freedom of Information: A Comparative Legal Survey*. Second Edition. UNESCO, 2008, p. 39.

²³²² IACHR. Office of the Special Rapporteur for Freedom of Expression. [Informe especial sobre la situación de la libertad de expresión en Chile](#) [Special report on the situation of freedom of expression in Chile]. OEA/Ser.L/V/II. CIDH/RELE/INF. 16/17. March 15, 2017. Para. 87.

²³²³ I/A Court H.R., [Case of Tristán Donoso v. Panama](#). Preliminary Objection, Merits, Reparations and Costs. Judgment of January 27, 2009. Series C No. 193. Para. 121; I/A Court H.R., [Case of Fontevecchia and D’Amico v. Argentina](#). Merits, Reparations and Costs. Judgment of November 29, 2011. Series C No. 238. Para. 61; I/A Court H.R., [Case of Mémoli v. Argentina](#). Preliminary Objections, Merits, Reparations and Costs. Judgment of August 22, 2013. Series C No. 265. Para. 146.

²³²⁴ Open Society Foundations/Open Society Justice Initiative. [The Global Principles on National Security and the Right to Information \(Tshwane Principles\)](#). June 12, 2013. Definitions.

²³²⁵ Open Society Foundations/Open Society Justice Initiative. [The Global Principles on National Security and the Right to Information \(Tshwane Principles\)](#). June 12, 2013. Principle 3. (Notes).

²³²⁶ I/A Court H.R. [Case of Myrna Mack Chang v. Guatemala](#). Merits, Reparations and Costs. Judgment of November 25, 2003. Series C No. 101. Para. 181.

104. In its report on Access to Information on Human Rights Violations (2010), the Office of the Special Rapporteur emphasized that states cannot keep information about serious human rights violations secret. To do so would be inconsistent with their duty to guarantee human rights, as well as with the duty of prevention (art. 1 of the ACHR); the obligation to guarantee the right of access to information (art. 13 of the ACHR); the duty to investigate *sua sponte*, prosecute, punish and redress human rights violations in a serious, impartial, and effective manner (arts. 8 and 25 of the ACHR).²³²⁷ Likewise, States must adapt their legal framework to guarantee the full and effective exercise of the right of access to information on serious human rights violations. Legislation must ensure that access to information is governed by the principles of maximum transparency and good faith (Article 2 ACHR).

105. The breach of these duties is incompatible with a democratic idea of national security, which can never condone the secrecy of serious human rights violations such as torture or the forced disappearance of persons, for example. In this regard, the Tshwane Principles (Principle 10. A. I) recall that “[T]here is an overriding public interest in disclosure of information regarding gross violations of human rights or serious violations of international humanitarian law, including crimes under international law, and systematic or widespread violations of the rights to personal liberty and security. Such information may not be withheld on national security grounds in any circumstances.”²³²⁸

106. In its report entitled *The Right to the Truth in the Americas*, the IACHR systematized the positive actions that the State should take when serious human rights violations have taken place or are taking place. State security sector agencies should: i) guarantee the right of victims, their relatives, and society as a whole to have direct and timely access to information about such violations under the principles governing the right of access to information;²³²⁹ ii) provide, on their own initiative, all information they possess about serious violations to the authorities in charge of investigating, prosecuting, and punishing those violations, and guarantee access to the information required by the respective authorities for those purposes. Public officials have a duty to report human rights violations of which they become aware in the course of or in connection with the performance of their duties. State authorities also have an obligation to help gather evidence in furtherance of the aims of an investigation and to refrain from acts that would obstruct the investigative process.²³³⁰ Due diligence in the investigation means that all state authorities have an obligation to cooperate in the collection of evidence, providing the judge, prosecutor, or other judicial authority with all the information they need, and refraining from acts that obstruct the investigation.²³³¹

107. The Commission has also stated that in transitional contexts “the State’s positive obligations in guaranteeing the right of access to information are heightened.”²³³² In a process of transitional justice during which the State is especially required to ensure truth, justice, reparation, and guarantees of non-recurrence, there is an overriding public interest in disclosure to society as a whole of information regarding human rights violations committed under the past regime, including for example, information related to acts of

²³²⁷ IACHR. [Annual Report 2010. Report of the Office of the Special Rapporteur for Freedom of Expression](#). Ch. III (Access to Information on Human Rights Violations). OEA/Ser.L/V/II. Doc. 5 March 7, 2011. Para. 5.

²³²⁸ Open Society Foundations/Open Society Justice Initiative. [The Global Principles on National Security and the Right to Information \(Tshwane Principles\)](#). June 12, 2013. Principle 10. A. I.

²³²⁹ I/A Court H.R. [Case of Gomes Lund et al. \(“Guerrilha do Araguaia”\) v. Brazil](#). Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 24, 2010. Series C No. 219. Paras. 210-211; IACHR. [The Right to the Truth in the Americas](#). OEA/Ser.L/V/II.152 Doc. 2. August 13, 2014. Para. 107.

²³³⁰ IACHR. [The Right to the Truth in the Americas](#). OEA/Ser.L/V/II.152 Doc. 2. August 13, 2014, para. 116; See, *inter alia*, I/A Court H.R., [Case of García Prieto et al. v. El Salvador](#). Preliminary Objections, Merits, Reparations and Costs. Judgment of November 20, 2007. Series C No. 168. Para. 112; [Case of Contreras et al. v. El Salvador](#). Merits, Reparations and Costs. Judgment of August 31, 2011. Series C No. 232. Para. 171; and [Case of the Río Negro Massacres v. Guatemala](#). Preliminary Objection, Merits, Reparations, and Costs. Judgment of September 4, 2012. Series C No. 250. Para. 194.

²³³¹ IACHR. [The Right to the Truth in the Americas](#). OEA/Ser.L/V/II.152 Doc. 2. August 13, 2014. Para. 126 (IV).

²³³² IACHR. Complaint to the Inter-American Court of Human Rights in Case 12.590, José Miguel Gudiel Álvarez et al. (“Diario Militar”) v. Guatemala, February 18, 2011. Para. 473; IACHR. [The Right to the Truth in the Americas](#). OEA/Ser.L/V/II.152 Doc. 2. August 13, 2014. Para. 107.

violence and rape committed in these contexts. The State must protect and preserve the integrity of all records containing information on such violations.²³³³

108. More recently, the Inter-American Juridical Committee adopted the Proposed Model Inter-American Law 2.0 on Access to Public Information, which also recommends that the OAS member states establish that “Information related to violations of human rights is subject to a high presumption of disclosure; in no case may it be classified by invoking reasons of national security (Article 27.4).”²³³⁴

109. The Plenary Chamber of the Colombian Constitutional Court specified that the inapplicability of limitations on access to information with respect to the Commission for the Clarification of the Truth (CEV) extends to all types of information necessary to fulfill its objectives, mandate, and functions, and not only to information on human rights violations and breaches of international humanitarian law.²³³⁵ The Court held that “In transitional settings, the extrajudicial bodies responsible for the official investigation of the truth and the reconstruction of memory must have full and direct access to all public information, regardless of its content or whether it can be restricted or classified, as long as it is necessary to accomplish their objectives, mandate, or functions. This access is intrinsically related to guaranteeing the right of the victims and society to know the truth, without prejudice to the appropriate protection of the rights of the victims.”

110. The case law of the Inter-American Court has also upheld this position; in the judgment handed down in *Myrna Mack Chang v. Guatemala* (2003), the Court held that “in cases of human rights violations, the State authorities cannot resort to mechanisms such as official secret or confidentiality of the information, or reasons of public interest or national security, to refuse to supply the information required by the judicial or administrative authorities in charge of the ongoing investigation or proceeding.”²³³⁶ Similarly, it has established that State authorities cannot legitimately rely on mechanisms such as State secrecy or confidentiality of information, or on reasons of public interest or national security, to avoid providing the information required by the judicial or administrative authorities in charge of pending investigations or prosecution.²³³⁷

111. Similarly, in *Gomes Lund et al. v. Brazil*, the Inter-American Court reaffirmed the obligation to satisfy the right of victims of serious human rights violations and their families—and of society as a whole—to know

²³³³ Open Society Foundations/Open Society Justice Initiative. [The Global Principles on National Security and the Right to Information \(Tshwane Principles\)](#). June 12, 2013. Principle 10. A. 3; IACHR. *The Right to the Truth in the Americas*. OEA/Ser.L/V/II.152 Doc. 2. August 13, 2014.

²³³⁴ OAS. Inter-American Juridical Committee, Proposal on an Inter-American Model Law 2.0 on Access to Public Information. 96th Regular Session, OEA/Ser. Q 2 – March 6, 2020; CJI/doc.607/20.

²³³⁵ Constitutional Court of Colombia. [Judgment C-017/18](#) of March 21, 2018; Constitutional Court of Colombia. [PRESS RELEASE No. 11](#). March 21, 2018; Upon a comprehensive review of Decree Law 588 of 2017 requested by the Commission for the Clarification of Truth, Coexistence, and Non-Repetition, the Constitutional Court declared Article 16 of Decree Law 588 of 2017 constitutional, except:

“(i) The phrase “[u]nder Article 21 of the Statutory Law on Transparency and the Right of Access to Public Information, Law 1712 of 2014, restrictions on access to public information are unconstitutional in the case of human rights violations or breaches of international humanitarian law,” contained in paragraph 1, which is declared conditionally constitutional, with the understanding that this unenforceability as it relates to the CEV extends to all types of information, and not only to information about human rights violations and breaches of IHL.

(ii) The phrase “any restriction,” contained in paragraph 1, which is declared conditionally constitutional, with the understanding that it refers to information that is restricted, classified, or derived from any other type of limitation on its access.

(iii) The phrase “[i]n the case of information contained in intelligence and counter-intelligence documents, the legal confidentiality, security, and protection of the information must be guaranteed prior to access, in writing, with the specification that it cannot be reproduced mechanically or electronically,” contained in paragraph 2, which is declared conditionally constitutional, with the understanding that this information cannot pertain to human rights violations, breaches of IHL, or crimes against humanity, in relation to which no limitation is permitted.”

²³³⁶ I/A Court H.R. [Case of Myrna Mack Chang v. Guatemala](#). *Merits, Reparations and Costs*. Judgment of November 25, 2003. Series C No. 101. Para. 180.

²³³⁷ IACHR. [The Right to the Truth in the Americas](#). OEA/Ser.L/V/II.152 Doc. 2. August 13, 2014. Para. 113. See, *inter alia*, I/A Court H.R. [Case of Myrna Mack Chang v. Guatemala](#). *Merits, Reparations and Costs*. Judgment of November 25, 2003. Series C No. 101. Para. 180; I/A Court H.R. [Case of Tiú Tojín v. Guatemala](#). *Merits, Reparations, and Costs*. Judgment of November 26, 2008. Series C No. 190. Para 77; [Case of Radilla-Pacheco v. Mexico](#). *Preliminary Objections, Merits, Reparations, and Costs*. Judgment of November 23, 2009. Series C No. 209. Para 258; [Case of Gomes Lund et al. \(“Guerrilha do Araguaia”\) v. Brazil](#). *Preliminary Objections, Merits, Reparations, and Costs*. Judgment of November 24, 2010. Series C No. 219. Para 196-202.

the truth, based on the right of access to justice and access to information.²³³⁸ The lack of access to information about the fate of a forcibly disappeared person, for example, implies “[t]he continued denial of the truth [which constitutes] a form of cruel, inhuman and degrading treatment for the close family”.²³³⁹ It also reiterated the right of the victims of serious human rights violations and their relatives to have direct and timely access to information about those events.²³⁴⁰

112. Furthermore, the Inter-American Court is of the opinion that, “the State cannot seek protection in arguing the lack of existence of the requested documents; rather, to the contrary, it must establish the reason for denying the provision of said information, demonstrating that it has adopted all the measures under its power to prove that, in effect, the information sought did not exist.”²³⁴¹ In this regard, “[i]t is essential that, in order to guarantee the right to information, the public powers act in good faith and diligently carry out the necessary actions to assure the effectiveness of this right, particularly when it deals with the right to the truth of what occurred in cases of gross violations of human rights such as those of enforced disappearances [and extrajudicial execution].”²³⁴²

113. The IACHR has also found that “knowledge of the circumstances of manner, time and place, motives and the identification of the perpetrators are fundamental to making full reparations to victims of human rights violations.”²³⁴³

114. This information should include, among other things:

“(i) the conduct of those who have been involved in committing serious violations of human rights or international humanitarian law, especially in the case of mass or systematic violations; (ii) the objective and subjective elements that helped create the conditions and circumstances in which atrocious conduct was perpetrated, and to identify the legal and factual factors that gave rise to the appearance and persistence of impunity; (iii) [evidence] for determining whether the State mechanisms served as a context for punishable conduct; (iv) [the identification of] the victims and the groups they belong to as well as those who have participated in acts victimizing others; and (v) [an understanding of] the impact of impunity.”²³⁴⁴

115. In view of the above, the IACHR has said that it is imperative for the State to provide the necessary measures to, among other things: ensure that the competent authorities responsible for the investigation of the facts have the power to access the relevant documentation and information to do so; ensure that all state authorities provide the judge, prosecutor, or other judicial authority with all the information required and refrain from acts that would obstruct the progress of the investigation; and ensure that justice authorities and society have public, technical, and systematized access to archives containing useful and relevant information for the investigation of cases involving human rights violations.²³⁴⁵

²³³⁸ I/A Court H.R. [Case of Gomes Lund et al. \("Guerrilha do Araguaia"\) v. Brazil](#). Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 24, 2010. Series C No. 219, paras. 200-201.

²³³⁹ IACHR. Annual Report 2010. Report of the Office of the Special Rapporteur for Freedom of Expression. Ch. III (Access to Information on Human Rights Violations). OEA/Ser.L/V/II. Doc. 5. March 7, 2011. Para. 11. See also: I/A Court H.R. Case of Trujillo-Oroza v. Bolivia. Reparations and Costs. Judgment of February 27, 2002. Series C No. 92. Para. 114; Case of Anzualdo Castro v. Peru. Preliminary Objection, Merits, Reparations and Costs. Judgment of September 22, 2009. Series C No. 202. Para. 113; and Case of La Cantuta v. Perú. Merits, Reparations and Costs. November 29, 2006. Series C No. 162. Para. 125. In relation to the suffering caused to the relatives of the direct victims, see I/A Court H.R. Case of Bámaca-Velásquez v. Guatemala. Merits. Judgment of November 25, 2000. Series C No. 70. Para. 160; Case of the "Street Children" (Villagran-Morales et al.) v. Guatemala. Merits. Judgment of November 19, 1999. Series C No. 73. Para. 175 and 176; and Case of Blake v. Guatemala. Reparations and Costs. Judgment of January 22, 1999. Series C No. 48. Para. 114 and 116.

²³⁴⁰ I/A Court H.R. [Case of Gomes Lund et al. \("Guerrilha do Araguaia"\) v. Brazil](#). Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 24, 2010. Series C No. 219, paras. 210 and 211.

²³⁴¹ I/A Court H.R. [Case of Gomes Lund et al. \("Guerrilha do Araguaia"\) v. Brazil](#). Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 24, 2010. Series C No. 219. Para. 202.

²³⁴² I/A Court H.R. [Case of Gomes Lund et al. \("Guerrilha do Araguaia"\) v. Brazil](#). Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 24, 2010. Series C No. 219. Para. 211.

²³⁴³ IACHR. [The Right to the Truth in the Americas](#). OEA/Ser.L/V/II.152 Doc. 2 August 13, 2014. Para. 29.

²³⁴⁴ IACHR. [The Right to the Truth in the Americas](#). OEA/Ser.L/V/II.152 Doc. 2 August 13, 2014. Para. 108.

²³⁴⁵ IACHR. [The Right to the Truth in the Americas](#). OEA/Ser.L/V/II.152 Doc. 2 August 13, 2014. Para. 126.

116. As reaffirmed in the Tshwane Principles, access to information on human rights violations includes the right to know “[t]he identities of all victims, so long as consistent with the privacy and other rights of the victims, their relatives, and witnesses; and aggregate and otherwise anonymous data concerning their number and characteristics that could be relevant in safeguarding human rights.” In this regard, the Principles specify that: i) “[t]he names and other personal data of victims, their relatives and witnesses may be withheld from disclosure to the general public to the extent necessary to prevent further harm to them, if the persons concerned or, in the case of deceased persons, their family members, expressly and voluntarily request withholding, or withholding is otherwise manifestly consistent with the person’s own wishes or the particular needs of vulnerable groups”; ii) “[c]oncerning victims of sexual violence, their express consent to disclosure of their names and other personal data should be required. Child victims (under age 18) should not be identified to the general public”; and iii) “[t]his Principle should be interpreted, however, bearing in mind the reality that various governments have, at various times, shielded human rights violations from public view by invoking the right to privacy, including of the very individuals whose rights are being or have been grossly violated, without regard to the true wishes of the affected individuals. These caveats, however, should not preclude publication of aggregate or otherwise anonymous data”.

ii. Información sobre vigilancia estatal

117. When the State takes initiatives to guarantee national security and prevent or counteract other threats, it must ensure that individuals are, at a minimum, adequately informed about the legal framework for surveillance and its purpose, as well as the regulatory framework of surveillance programs; the procedures to be followed for authorization, the selection of targets and the use or handling of data; the protocols for the sharing, storage and destruction of intercepted material, as well as the entities authorized to carry out surveillance actions and statistics on the use of these actions, and the bodies responsible for implementing and monitoring such programs.²³⁴⁶

118. While the protection of national security may justify the use of surveillance in private communications, it must be subject to a series of requirements and guarantees, applied in a strictly proportional and necessary manner. In the digital age, surveillance can be a particularly invasive act, seriously affecting the right to privacy, freedom of thought and expression, and the procedural rights of individuals who have been or believe themselves to be targeted for surveillance, as well as journalists, human rights defenders, and whistleblowers, as the OAS and UN Rapporteurs on Freedom of Opinion and Expression have been saying since 2013.²³⁴⁷

119. The Tshwane Principles propose that States guarantee certain minimum standards of transparency about this increasingly invasive and widespread activity in the digital age. Therefore, States must ensure that people are informed about: i) the laws governing all forms of surveillance, both covert and overt, including indirect surveillance such as profiling and data-mining; ii) the permissible objectives of surveillance; (iii) the threshold of suspicion required to initiate or continue surveillance, as well as the procedures for authorizing and reviewing the use of such measures; iii) the types of personal data that may be collected and/or processed for national security purposes and the criteria that apply to the use, retention, deletion, and transfer of these data; and iv) the entities authorized to conduct surveillance, and statistics about the use of such surveillance.²³⁴⁸ The State must ensure that society is informed of all unlawful surveillance.²³⁴⁹

120. States should, at the very least, publicly disclose information about the regulatory framework of surveillance programs; the entities in charge of their implementation and oversight; the procedures for

²³⁴⁶ Open Society Foundations/Open Society Justice Initiative. [The Global Principles on National Security and the Right to Information \(Tshwane Principles\)](#). June 12, 2013. Principle 10. E. (I), (2).

²³⁴⁷ United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression, Special Rapporteur for Freedom of Expression of the OAS Inter-American Commission on Human Rights. June 21, 2013. [Joint Declaration on surveillance programs and their impact on freedom of expression](#).

²³⁴⁸ Open Society Foundations/Open Society Justice Initiative. [The Global Principles on National Security and the Right to Information \(Tshwane Principles\)](#). June 12, 2013. Principle 10. E. (I).

²³⁴⁹ Open Society Foundations/Open Society Justice Initiative. [The Global Principles on National Security and the Right to Information \(Tshwane Principles\)](#). June 12, 2013. Principle 10. E. (3).

authorizing, choosing targets, and using the data collected; and the use of these techniques, including aggregate information on their scope. The State must ensure program transparency and accountability and should allow service providers to provide aggregate data on the number and scope of device access requests they receive.²³⁵⁰

121. The growing role of the private sector in the surveillance activities of state security agencies must also be taken into consideration. The International Principles on the Application of Human Rights to Communications Surveillance call for the State to publish “aggregate information on the specific number of requests approved and rejected, a disaggregation of the requests by service provider and by investigation authority, type, and purpose, and the specific number of individuals affected by each,”²³⁵¹ and note that states should not interfere with service providers in their efforts to publish their procedures for assessing and complying with state requests, as well as other statistical information.²³⁵²

iii. Information related to corrupt acts or the management of public resources

122. A national security interest cannot legitimately be invoked when its objective or indirect effect is to protect or conceal alleged wrongdoing or violations of law, or the improper functioning of public institutions.²³⁵³ These cannot be understood as legitimate objectives to limit the right of access to information under Article 13(2) of the American Convention, nor in keeping with the obligations of the State under other instruments such as the United Nations Convention against Corruption and the Inter-American Convention against Corruption.

123. The Inter-American Court of Human Rights has emphasized that the full and effective enjoyment of the right of access to public information is essential to guarantee public oversight. This serves to prevent abuses in the exercise of public functions, to promote accountability and transparency in government, and ultimately, to provide guarantees against government abuses and corruption.²³⁵⁴

124. In Resolution 1/18, the Inter-American Commission on Human Rights emphasized that corruption is a complex phenomenon that affects human rights in their entirety—civil, political, economic, social, cultural and environmental—as well as the right to development; weakens governance and democratic institutions, promotes impunity, undermines the rule of law and exacerbates inequality. The IACHR underscored that the right to access to public information and the principle of transparency of state management, protected by Article 13 of the Convention, have been recognized as one of the main tools in the fight against corruption.²³⁵⁵

125. The Office of the Special Rapporteur notes that Article 115 of **Mexico’s** Transparency and Access to Public Information Act expressly provides that the confidentiality of information may not be invoked when “it is information related to acts of corruption in accordance with the applicable laws.”²³⁵⁶ This provision was enforced in court to establish that the information requested by a citizen regarding the acquisition and characteristics of the Pegasus software should be made public.²³⁵⁷ The judgment held “that there is evidence

²³⁵⁰ UN Special Rapporteur on UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression and the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights. June 21, 2013. [Joint Declaration on surveillance programs and their impact on freedom of expression](#).

²³⁵¹ Necessary and Proportionate Principles. [International Principles on the Application of Human Rights to Communications Surveillance](#) / (the “Necessary and Proportionate Principles” or “13 Principles”). Final version of May 10, 2014. Available at: <https://necessaryandproportionate.org/principles/>.

²³⁵² United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression, Special Rapporteur for Freedom of Expression of the OAS Inter-American Commission on Human Rights. June 21, 2013. [Joint Declaration on surveillance programs and their impact on freedom of expression](#).

²³⁵³ Open Society Foundations/Open Society Justice Initiative. [The Global Principles on National Security and the Right to Information \(Tshwane Principles\)](#). June 12, 2013. See definition of legitimate national security interest.

²³⁵⁴ I/A Court H.R., *Case of Claude Reyes et al. v. Chile*. Merits, Reparations and Costs. Judgment of September 19, 2006. Series C No. 151. Paras. 86-87.

²³⁵⁵ IACHR. [Resolution 1/18. Corruption and Human Rights](#). March 2, 2018.

²³⁵⁶ United Mexican States. Transparency and Access to Public Information Act of Mexico. [Ley General de Transparencia y Acceso a la Información Pública de México]. May 4, 2015. Article 115.

²³⁵⁷ Eighth District Judge for Administrative Matters in Mexico City. Judgment in *amparo* proceeding 592/2018 of December 13, 2018. Available at: <https://es.scribd.com/document/395959163/Sentencia-Pegasus> (Retrieved on 3/14/2019).

to suggest acts of corruption because we can establish *prima facie* that the Pegasus software was not primarily used to safeguard ‘national security’ but was also used as a political weapon against journalists, politicians, and ordinary citizens, i.e., a diversion of power in the State’s actions.”

126. In addition, in order to guarantee the right of access to information of public interest related to national security, and to enable broad and effective citizen oversight of budgetary matters, states must proactively disclose information that allows for clear, complete, and timely knowledge of how security sector finances are managed, as well as the rules governing it.²³⁵⁸

The limitation must have a deadline and be subject to conditions

127. A critical guarantee to prevent the abuse of restrictions on access to information for national security purposes is to ensure that they are temporary, lasting only as long the release of such information may pose a real threat and the conditions for classification remain in place. Any limitations that are imposed must be for a reasonable period of time, after which the public will have the right to know the respective information.²³⁵⁹ The determination of the classification should specify the date and the conditions or events under which the information will be declassified.²³⁶⁰ As suggested by the rapporteurs from all of the protection systems in 2004, the laws governing secrecy should “set overall limits on the length of time documents may remain secret.”²³⁶¹

128. Consequently, and as reaffirmed in the Tshwane Principles, i) information may be withheld on national security grounds for only as long as necessary to protect a legitimate national security interest;²³⁶² ii) the decision not to disclose certain information should be reviewed periodically and it is good practice for the review to be required by law;²³⁶³ iii) no information may remain classified indefinitely, and the presumptive maximum period of classification on national security grounds should be established by law;²³⁶⁴ and iv) information may be withheld beyond the presumptive deadline only in exceptional circumstances, pursuant to a new decision to withhold, made by another decision-maker, and setting an amended deadline.²³⁶⁵

Severability of Information and Partial Disclosure

129. Based on the principle of maximum disclosure, when a record contains both exempt and non-exempt information, the exceptions to disclosure apply only to the specific information protected by the exception rather than to the entire document. In this case, the specific information can only be withheld when it has been proven that the restriction is valid for each section whose disclosure is sought to be prevented.²³⁶⁶

130. Several access to public information laws in the region have expressly incorporated this principle. Article 21 of **Colombia’s** Access Law states that “[i]n those circumstances where not all the information contained in a document is protected by an exception under this law, a public version must be made which

²³⁵⁸ Open Society Foundations/Open Society Justice Initiative. [The Global Principles on National Security and the Right to Information \(Tshwane Principles\)](#). June 12, 2013. Principle 10. F.

²³⁵⁹ IACHR. Office of the Special Rapporteur for Freedom of Expression. [The Inter-American legal framework regarding the right to access to information. Second edition](#). OEA/Ser.L/V/II. CIDH/RELE/INF. 9/12. March 7, 2011. Para. 11.

²³⁶⁰ Open Society Foundations/Open Society Justice Initiative. [The Global Principles on National Security and the Right to Information \(Tshwane Principles\)](#). June 12, 2013. Principle 16. b.

²³⁶¹ UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media and the OAS Special Rapporteur for Freedom of Expression. December 6, 2004. [Joint Declaration on Access to Information and on Legislation Regulating Secrecy](#).

²³⁶² Open Society Foundations/Open Society Justice Initiative. [The Global Principles on National Security and the Right to Information \(Tshwane Principles\)](#). June 12, 2013. Principle 16.a.

²³⁶³ Open Society Foundations/Open Society Justice Initiative. [The Global Principles on National Security and the Right to Information \(Tshwane Principles\)](#). June 12, 2013. Principle 16.a.

²³⁶⁴ Open Society Foundations/Open Society Justice Initiative. [The Global Principles on National Security and the Right to Information \(Tshwane Principles\)](#). June 12, 2013. Principle 16. c.

²³⁶⁵ Open Society Foundations/Open Society Justice Initiative. [The Global Principles on National Security and the Right to Information \(Tshwane Principles\)](#). June 12, 2013. Principle 16. d.

²³⁶⁶ OAS. Model Inter-American Law on Access to Public Information. [Resolution AG/RES. 2607 \(XL-O/10\)](#). June 8, 2010. Art. 41; Open Society Foundations/Open Society Justice Initiative. [The Global Principles on National Security and the Right to Information \(Tshwane Principles\)](#). June 12, 2013. Principle 22.

preserves the confidentiality of only the essential part.” The Colombian Constitutional Court has ruled that “[t]his provision orders the creation of public versions of documents in which those sections not protected by constitutional or legal exceptions or restrictions can be made public, thus guaranteeing the principle of maximum disclosure (...) In these public versions, only the essential part must be kept secret, and public versions must be provided to anyone who requests them.”²³⁶⁷

131. In the case of **Mexico**, the “General guidelines for the classification and declassification of information, and for the preparation of public versions” indicate that when a document or file containing classified parts or sections is requested, the agency in possession of the information must prepare a public version, “stating the reasons for the classification of the parts or sections to be redacted, following established procedures.”²³⁶⁸

States of emergency

132. In its report “Terrorism and Human Rights”, the Inter-American Commission held that in lawfully declared emergency situations should take into account the importance of freedom of expression for the functioning of democracy and guaranteeing other fundamental rights when considering suspending any guarantees under Article 13 of the Convention.²³⁶⁹ As the Commission stated, any restrictions on freedom of expression during an emergency situation must conform to the requirements of proportionality, scope, and non-discrimination set forth in Article 27 of the American Convention, and states must bear in mind the importance of freedom of expression in guaranteeing other fundamental human rights in emergency contexts.²³⁷⁰

133. The Office of the Special Rapporteur is of the opinion that access to certain categories of information in which there is a compelling public interest or about which there is a strong presumption in favor of disclosure, should be upheld even in such emergency situations. In its recent Resolution 1/20 on the global Covid-19 health emergency, the IACHR recommended that states “[e]nsure the right to access public information in the framework of the emergency caused by COVID-19, and not set general limits based on reasons of security or public order.”²³⁷¹

134. In turn, Principle 8 of the Tshwane Principles states that: “[I]n a time of public emergency which threatens the life of the nation and the existence of which is officially and lawfully proclaimed in accordance with both national and international law, a State may derogate from its obligations regarding the right to seek, receive, and impart information only to the extent strictly required by the exigencies of the situation and only when and for so long as the derogation is consistent with the State’s other obligations under international law, and does not involve discrimination of any kind.” Certain aspects of the right to seek, receive, and impart information and ideas are fundamental to the enjoyment of non-derogable rights, and should therefore be fully respected even in times of public emergency.

B) State obligations related to the right of access to public information

135. States should take a series of measures to ensure access to information of public interest related to national security. The duty to guarantee the right of access to public information imposes an obligation on the

²³⁶⁷ Constitutional Court of Colombia. [Judgment C-274/13](#) of May 9, 2013.

²³⁶⁸ Consejo Nacional del Sistema Nacional de Transparencia, Acceso a la Información Pública y Protección de Datos Personales de México. Lineamientos Generales en materia de Clasificación y Desclasificación de la Información, así como para la Elaboración de Versiones Públicas [National Council of the National System for Transparency, Access to Information, and Personal Data Protection of Mexico. General Guidelines for the Classification and Declassification of Information, and for the Preparation of Public Versions]. ACUERDO CONAIP/SNT/ACUERDO/EXT18/03/2016-03. Published on the Official Gazette of the Federation on April 15, 2016. Ninth provision.

²³⁶⁹ IACHR. Report on Terrorism and Human Rights (2002). Chapter III. Section E): Right to Freedom of Expression. OEA/Ser.L/V/II.116 Doc. 5 rev. 1 corr. 22 October, 2002. Para. 331. Available at: <http://www.cidh.org/Terrorism/Eng/toc.htm>.

²³⁷⁰ IACHR. Report on Terrorism and Human Rights (2002). Chapter III. Section E): Right to Freedom of Expression. OEA/Ser.L/V/II.116 Doc. 5 rev. 1 corr. 22 October, 2002. Para. 271. Available at: <http://www.cidh.org/Terrorism/Eng/toc.htm>.

²³⁷¹ IACHR. [Resolution 1/20. Pandemic and Human Rights in the Americas](#). April 10 2020. Para. 32.

State to include a suitable and effective remedy in its legal system that can be used by all persons to request information from all public bodies.

136. The Inter-American Court of Human Rights has highlighted “the obligation to guarantee the effectiveness of an appropriate procedure for the processing and resolution of the requests for information, that sets the dates for the resolution and presentation of information, and that this is done under the responsibility of officials that are duly qualified”. Moreover, “It is essential that, in order to guarantee the right to information, the public powers act in good faith and diligently carry out the necessary actions to assure the effectiveness of this right (...).”²³⁷²

137. This means, among other things, ensuring that the formal requirements are minimal and that, adhering to the concept of “informalism” and the guiding principles of maximum disclosure and good faith, the authorities process requests for information in a way that ensures that the requester’s lack of technical knowledge about the categories of information held by the entity or its various divisions, or even about internal nomenclatures, does not become a *de facto* barrier to access to information.

138. Similarly, the Office of the Special Rapporteur notes, as an example, that **Paraguay’s** Access to Public Information Act provides that “Requests for access to information that are defective or submitted to a public source that lacks the necessary authority may not be rejected or shelved on those grounds.”²³⁷³ Further progress can be seen in Article 1 of **Argentina’s** Access to Public Information Act, which, among others, provides for the principle *in dubio pro petitor* and states that “The provisions of this law or any regulation of the right of access to information must, in case of doubt, always be interpreted in favor of the broadest validity and scope of the right to information.”

139. As the Office of the Special Rapporteur has emphasized, the remedy provided by the State must establish an obligation to the effect that, if a request is denied, the denial must be well-founded and subject to appeal before a higher or autonomous body. Requesters must also have the option of subsequently challenging the denial in court.²³⁷⁴

140. In the context of national security interests, the authorities must process requests for information even if the information is classified and provide a well-founded response, stating the reasons invoked to restrict disclosure in the specific case.²³⁷⁵ It is good practice to place the burden on officials to provide a reasoned response within the legal timeframe. This duty can be established, for example, by enacting provisions that grant approval by default or constructive approval in the absence of a response and provide that the failure to respond creates a presumption that the information should be disclosed.

141. The information that is ultimately released to the requesters must be complete and understandable, in an accessible and up-to-date language. In order to guarantee the universality of the right of access to information, States must adopt the necessary measures and provide reasonable accommodations to ensure that the information is genuinely accessible to persons with disabilities,²³⁷⁶ and must meet any requirements that may arise from a community’s linguistic diversity.²³⁷⁷

²³⁷² I/A Court H.R., *Case of Claude Reyes et al. v. Chile*. Merits, Reparations and Costs. Judgment of September 19, 2006. Series C No. 151. Para. 163; Cfr., I/A Court H.R., *Case of Gomes Lund et al. (“Guerrilha do Araguaia”) v. Brazil*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 24, 2010. Series C No. 219. Para. 231 and 211.

²³⁷³ Republic of Paraguay. Law No. 5282 / Free citizen access to public information and government transparency [*Libre acceso ciudadano a la información pública y transparencia gubernamental*]. Arts. 14-15. Available at: https://informacionpublica.paraguay.gov.py/public/ley_5282.pdf

²³⁷⁴ IACHR. Office of the Special Rapporteur for Freedom of Expression. *The Inter-American legal framework regarding the right to access to information. Second edition*. OEA/Ser.L/V/II. CIDH/RELE/INF. 9/12. March 7, 2011. Para. 26.

²³⁷⁵ Open Society Foundations/Open Society Justice Initiative. *The Global Principles on National Security and the Right to Information [Tshwane Principles]*. June 12, 2013. Principle 18.

²³⁷⁶ See: UN. Convention on the Rights of Persons with Disabilities. Adopted in December 2006. Article 2 of the Convention provides: (...) “Discrimination on the basis of disability’ means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation”; “Reasonable accommodation’ means necessary and appropriate modification and adjustments

Preventing over-classification of national security information and promoting declassification

142. The classification of information by the State is a critical issue in a democratic society. The rules on classification and declassification must be made public and the information relating to classification decisions must be publicly available.²³⁷⁸ Access to information laws should require regulated entities to inform the relevant supervisory bodies when information has been classified, as well as the periodic proactive publication of lists of classified information. The above, so that it is clear what information has been withheld, for what period of time, and on what basis, identifying the specific harm that could result from disclosure.

143. It is therefore essential that states develop a formal system for classifying information,²³⁷⁹ as well as procedures for the declassification of records, including the consolidation and periodic updating of guidelines on the declassification of information.²³⁸⁰ In this regard, the Tshwane Principles recommend that laws provide for the automatic declassification of different categories of classified information and a public and accessible procedure for requesting the declassification of documents.²³⁸¹ Additionally, “[d]eclassified documents, including those declassified by courts, tribunals or other oversight, ombuds, or appeal bodies, should be proactively disclosed or otherwise made publicly accessible.”²³⁸²

144. States should promote a culture of transparency and implement programs to make citizens aware of the scope and purpose of the right of access to information and how to exercise it.²³⁸³ In carrying out these actions, they should adequately address the various forms of discrimination that can affect the full and effective enjoyment of the right of access to information for certain groups in society.

Obligation to provide an appropriate and effective judicial remedy for the review of denials of information

145. While the inter-American system has recommended that states establish independent oversight bodies for access to information laws, including with the power to render final determinations, it is clear that such remedies are not always sufficient to provide guarantees to citizens. When it comes to national security exceptions in particular, the Office of the Special Rapporteur has documented that security agencies often resist the release of information through administrative and judicial remedies, fail to comply with administrative decisions or assert defenses that are not always in line with the principles of access to information.

146. Therefore, the IACHR and its Office of the Special Rapporteur have insisted that the courts must always be open to reviewing denials of access to information. The States “States should enshrine the right to administrative review and subsequent judicial review of administrative decisions through a recourse that is simple, effective, quick, and non-onerous, that allows the challenging of decisions of public officials that deny the right of access to specific information or simply neglect to answer the request. Together with that, the remedy should: i) review the merits of the controversy to determine whether the right of access was

not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms (...).” See also: OAS. Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities. Adopted on June 7, 1999.

²³⁷⁷ See, e.g.: OAS. American Declaration on the Rights of Indigenous Peoples. AG/RES. 2888 (XLVI-O/16). Adopted on June 14, 2016. <https://www.oas.org/en/sare/documents/DecAmIND.pdf>.

²³⁷⁸ UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media and the OAS Special Rapporteur on Freedom of Expression and the OAS Special Rapporteur for Freedom of Expression. December 6, 2004. [Joint Declaration on Access to Information and on Legislation Regulating Secrecy](#).

²³⁷⁹ Open Society Foundations/Open Society Justice Initiative. [The Global Principles on National Security and the Right to Information \(Tshwane Principles\)](#). June 12, 2013. Principle 11. a.

²³⁸⁰ See: IACHR. Office of the Special Rapporteur for Freedom of Expression. [The Inter-American legal framework regarding the right to access to information. Second edition](#). OEA/Ser.L/V/II. CIDH/RELE/INF. 9/12. March 7, 2011. Para. 39-42; Open Society Foundations/Open Society Justice Initiative. [The Global Principles on National Security and the Right to Information \(Tshwane Principles\)](#). June 12, 2013. Principle 17.

²³⁸¹ Open Society Foundations/Open Society Justice Initiative. [The Global Principles on National Security and the Right to Information \(Tshwane Principles\)](#). June 12, 2013. Principle 17.

²³⁸² Open Society Foundations/Open Society Justice Initiative. [The Global Principles on National Security and the Right to Information \(Tshwane Principles\)](#). June 12, 2013. Principle 17. F.

²³⁸³ IACHR. Office of the Special Rapporteur for Freedom of Expression. [The Inter-American legal framework regarding the right to access to information. Second edition](#). OEA/Ser.L/V/II. CIDH/RELE/INF. 9/12. March 7, 2011. Para. 38.

inhibited, and ii) in the affirmative case, order the corresponding government body to turn over the information. In these cases, the recourses should be simple and quick, since the expeditious delivery of the information is indispensable for the fulfillment of the functions this right presupposes.”²³⁸⁴

147. The Inter-American Court of Human Rights has noted that the formal existence of judicial remedies is not enough; they must also be adequate and effective, which means that they must be suitable for protecting the legal status that has been infringed and capable of producing the outcome for which they were designed.²³⁸⁵ Moreover, judicial authorities must be able to access the information *in camera* or through on-site visits in order to determine whether the arguments of other state agencies to limit access to the information are legitimate, or to verify the alleged non-existence of information.²³⁸⁶

148. The Tshwane Principles stipulate the general principle of judicial review. In view of this principle, states must ensure that the courts have “the power to examine the information” that the public authority intends to classify in order to determine whether it should be classified. The Principles also state that “the fact of classification should not be conclusive as to the request for non-disclosure of information.” In other words, “[s]hould independently assess whether the public authority has properly invoked any basis for non-disclosure.” Accordingly, the court “should assess the nature of any harm claimed by the public authority, its likelihood of occurrence, and the public interest in disclosure.”²³⁸⁷

Obligation of active transparency

149. The proactive disclosure of information by national security agencies is something that states should consider, especially for certain categories of information in which there is an overriding public interest or a strong presumption in favor of disclosure. In fact, the Inter-American Model Law includes a list of “classes of key information” that should, at a minimum, be published on a regular and proactive basis.²³⁸⁸

150. The right of access to public information requires the State to proactively disseminate information about its functions, activities, and management of public resources on a routine basis—even when there is no request for access to public information—ensuring that the information is accessible, comprehensible, and up to date. The IACHR has reiterated that “given that significant segments of the population do not have access to new technologies yet many of their rights can depend on obtaining information on how to realize them, in these circumstances the State must find efficient ways to fulfill its obligation of active transparency.”²³⁸⁹

151. As for security sector agencies, the proactive disclosure of information should not be limited to making minimal aspects of the agency’s operation transparent. They should ensure the disclosure of any information that may be needed to allow the public to be informed about the State’s national security activities and to evaluate public policy in this area. In this regard, for example, **Argentina’s** Access to Public Information Act, when specifying the grounds for withholding information, states that “in no case” shall the withholding “extend to information necessary to assess the definition of the nation’s security, defense, and foreign relations policies; nor to that information whose disclosure does not pose a real and identifiable risk of significant harm to a legitimate interest linked to those policies.”²³⁹⁰ Similarly, **Mexico’s** Transparency and Access to Public Information Act states that “[t]he information published in line with transparency policies

²³⁸⁴ IACHR. Office of the Special Rapporteur for Freedom of Expression. [The Inter-American legal framework regarding the right to access to information. Second edition](#). OEA/Ser.L/V/II. CIDH/RELE/INF. 9/12. March 7, 2011. Para. 29.

²³⁸⁵ IACHR. Office of the Special Rapporteur for Freedom of Expression. [The Inter-American legal framework regarding the right to access to information. Second edition](#). OEA/Ser.L/V/II. CIDH/RELE/INF. 9/12. March 7, 2011. Para. 30; I/A Court H.R., *Case of Velásquez Rodríguez v. Honduras*. Merits. Judgment of July 29, 1988. Series C No. 4. Paras. 64, 66.

²³⁸⁶ IACHR. [Annual Report 2010. Report of the Office of the Special Rapporteur for Freedom of Expression](#). Ch. III (Access to Information on Human Rights Violations). OEA/Ser.L/V/II. Doc. 5 March 7, 2011. Para. 25.

²³⁸⁷ Open Society Foundations/Open Society Justice Initiative. [The Global Principles on National Security and the Right to Information \[Tshwane Principles\]](#). June 12, 2013. Principle 27.

²³⁸⁸ OAS. Model Inter-American Law on Access to Public Information. [Resolution AG/RES 2607 \(XL-O/10\)](#). June 8, 2010. Art. 11.

²³⁸⁹ IACHR. Office of the Special Rapporteur for Freedom of Expression. [The Inter-American legal framework regarding the right to access to information. Second edition](#). OEA/Ser.L/V/II. CIDH/RELE/INF. 9/12. March 7, 2011. Para. 32.

²³⁹⁰ Argentine Republic. [Law No. 27275. Right of Access to Public Information](#). [*Ley de Derecho de Acceso a la Información Pública*]. September 14, 2016. Art. 8.

must allow for the creation of useful public knowledge in order to reduce information asymmetries, improve access to procedures and services, and streamline decision making by authorities or citizens; it must also have a clear purpose focused on the needs of specific or identifiable sectors of society.”²³⁹¹ It further provides that “[i]nformation on transparency obligations should be published with a gender and disability perspective, where appropriate,” and that “efforts will be made to make the published information accessible specifically to people who speak an indigenous language.”²³⁹²

152. Finally, thanks to the availability of data processing, the States of the region have been adopting standards for the informal publication of open data. Thus, for example, the **Argentine** law provides that regulated entities “must facilitate the search for and access to public information through their official website (...) seeking to remove any barriers that hinder or make it difficult for third parties to reuse it.”²³⁹³ In **Uruguay**, Law No. 19.355 makes it mandatory for public entities to publish in an open format the information they are required to disclose proactively under the law on the right of access to public information (Article 5 of Law No. 18.381).²³⁹⁴

Obligation to produce or capture information

153. In addition, the State has the obligation to produce or capture the information it needs to perform its duties, as established by international, constitutional, or legal norms. In implementing this obligation, the State should take into account that: (i) several human rights instruments impose specific obligations to generate certain information; (ii) the production of quality information, that is, information produced in a rigorous, standardized, complete, updated, and properly disaggregated manner, is a fundamental aspect of ensuring adequate monitoring of compliance with human rights treaties by the bodies that have such a mandate; (iii) it is essential to guarantee the availability of quality public information so that the State can establish public policies and other measures necessary to fully and effectively guarantee human rights on accurate grounds.

154. Under the inter-American standards, the *object* of the right of access to public information “covers information that is in the care of, possession of, or being administered by the State; the information that the State produces, or the information *that it is obliged to produce*; the information that is under the control of those who administer public services and funds and pertains to those specific services or funds; and the information that the State collects and that it *is obligated to collect in the performance of its functions* (italics added).”²³⁹⁵

155. It is imperative that the State produce or capture all necessary information on human rights violations and breaches of international humanitarian law that have taken place or are taking place, as well as information that may be appropriate for the prevention and investigation of such violations and, as stated above, ensure its timely disclosure.²³⁹⁶ The State must also produce information that allows the public to know how security sector agencies are complying with active transparency obligations, what information

²³⁹¹ United Mexican States. [Transparency and Access to Public Information Act of Mexico](#). [*Ley General de Transparencia y Acceso a la Información Pública de México*]. May 4, 2015. Art. 58.

²³⁹² United Mexican States. [Transparency and Access to Public Information Act of Mexico](#). [*Ley General de Transparencia y Acceso a la Información Pública de México*]. May 4, 2015. Arts. 64 and 65.

²³⁹³ Argentine Republic. [Law No. 27275. Right of Access to Public Information](#). [*Ley de Derecho de Acceso a la Información Pública*]. September 14, 2016. Art. 32.

²³⁹⁴ Republic of Uruguay. Law 19.355. December 16, 2015. Available at: <https://legislativo.parlamento.gub.uy/temporales/leytemp9622787.htm>. Art. 82 of Law 19.355 provided: “At a minimum, public entities must publish, in an open format, the information required by Article 5 of Law No. 18.381 of October 17, 2008, and by Articles 38 and 40 of Decree No. 232/010 of August 2, 2010, as applicable in its area of responsibility. The data and its associated metadata must comply with the technical standards set by the Agency for the Development of the Government of Electronic Management and the Information and Knowledge Society. These data must be published in accordance with the provisions of Law No. 19.179 of December 27, 2013 (free ‘software’ and open formats in the State).”

²³⁹⁵ IACHR. Office of the Special Rapporteur for Freedom of Expression. [The Inter-American legal framework regarding the right to access to information. Second edition](#). OEA/Ser.L/V/II. CIDH/RELE/INF. 9/12. March 7, 2011. Para. 21.

²³⁹⁶ Open Society Foundations/Open Society Justice Initiative. [The Global Principles on National Security and the Right to Information \(Tshwane Principles\)](#). June 12, 2013. Principle 10.

they are classifying for national security reasons, and, in general, statistical and other information that informs the public about the application of national security exceptions.

156. Among the information that the State must produce, capture and/or collect, the relevance of these obligations with respect to gender-based violence stands out. Certainly, the IACHR has recommended States in the region to improve documentation and collection of qualitative and quantitative data on the causes, consequences, and frequency of gender-based violence experienced by women, particularly those who were victims of armed conflict or who are currently being targeted because of their positions or public profile. These obligations are also in line with Indicator 16.10.1. of Target 16.10 of the Sustainable Development Goals, which requires states to provide sex-disaggregated data on the number of verified cases of murder, abduction, enforced disappearance, arbitrary detention, and torture of women journalists, human rights defenders, and activists.²³⁹⁷

157. Recently, some legislation has sought to avoid *de facto* abuse through the non-production or supposed non-existence of information. The Office of the Special Rapporteur cites Article 138 of Mexico's Transparency and Access to Public Information Act, which provides that, when information is said not to be in the regulated entity's files, the Transparency Committee: i) [w]ill examine the case and take the necessary steps to locate the information; ii) [w]ill issue a finding confirming the non-existence of the document; iii) [w]ill order, whenever physically possible, that the information be generated or restored in case it should exist, to the extent that it is derived from the exercise of [the regulated entity's] powers, responsibilities, or duties, or, after verifying the impossibility of generating the information, that a well-founded and reasoned explanation be provided of the reasons why in the particular case [the regulated entity] failed to exercise such powers, responsibilities, or duties, notifying the requester through the Transparency Unit; and IV. Will notify the internal oversight body or equivalent unit of the regulated entity, which, if appropriate, must open the respective administrative liability proceedings."

Obligation to adapt the domestic legal system

158. Finally, the State has the obligation to bring its domestic legal system into line with international standards on access to information. To that end, and in relation to the duty to guarantee the right of access to information and adopt domestic legal provisions, the State must: i) implement an adequate legal framework for purposes of guaranteeing the right of access to information; ii) remove legal or administrative obstacles that impede access to information; iii) promote the right of access within all of the State's entities and authorities; and iv) in general terms, adopt public policy that is favorable to the full exercise of this right.²³⁹⁸

159. This obligation is particularly important in relation to the harmonization of laws on access to public information and rules protecting national security interests. As documented in this report, national security, intelligence, and defense regulations were enacted before any access laws existed; and in other cases, security laws do not consider the transparency obligations derived from the right of access to information, nor are they passed with the broad participation of organizations and experts on access to information.

160. More recently, the Inter-American Juridical Committee adopted the Proposed Model Inter-American Law 2.0 on Access to Public Information, which recommends that the OAS member states establish an exhaustive list of information that may be withheld for national defense or security reasons and that falls into one of the following categories:

Information on ongoing defense plans, operations and issues of capacity during the period in which the information has operational utility;

²³⁹⁷ IACHR. [Annual Report 2018. Report of the Office of the Special Rapporteur for Freedom of Expression](#). Ch. III (Women Journalists and Freedom of Expression). OEA/SER.L/V/II CIDH/RELE/INF.20/18, October 31, 2018, paras. 168 *et seq.*

²³⁹⁸ IACHR. Office of the Special Rapporteur for Freedom of Expression. [The Inter-American legal framework regarding the right to access to information. Second edition](#). OEA/Ser.L/V/II. CIDH/RELE/INF. 9/12. March 7, 2011. Para. 43; I/A Court H.R., [Case of Claude Reyes et al. v. Chile](#), Merits, Reparations and Costs. Judgment of September 19, 2006. Series C No. 151. Para. 163.

Information on the production, capacities or use of weapons systems and other military systems, including communications systems;

Information on specific measures intended to safeguard the State's territory, critical infrastructure or fundamental national institutions (*institutions essentielles*) against threats, use of force or sabotage, the effectiveness of which depends on restricting its disclosure;

Information intrinsic to or derived from intelligence services' operations, sources and methods, provided they concern matters related to national security;

Information related to matters of national security provided by a foreign state or intergovernmental agency with an express expectation of confidentiality and other diplomatic communications to the extent that they involve matters related to national security;

It is considered good practice for national legislation to establish an exclusive list of limited categories of information, such as the above.²³⁹⁹

Chapter IV – OTHER MECHANISMS TO GUARANTEE THE RIGHT TO INFORMATION OF PUBLIC INTEREST RELATED TO NATIONAL SECURITY

161. The right of access to information is vital for the exercise of citizen oversight of government activities and of particular importance to asserting “society’s right to know.” Although this guarantee is indispensable, the freedom to seek, receive, and impart information also protects other tools such as investigative journalism, confidential sources, and the role of whistleblowers. In the words of the United Nations Rapporteur on Freedom of Opinion and Expression, “[a] common thread ties together the right of access to information, the protection of sources of information and the protection of whistle-blowers.”²⁴⁰⁰

162. This set of guarantees, in addition to forming part of the freedoms that are the cornerstone of democratic society, makes it possible for the exercise of freedom of expression, the practice of investigative journalism, and government accountability.

A) Investigative journalism, access to information, and national security

163. An increasing number of journalists in the region are using access to public information laws as a tool for investigating and reporting on state activities in the area of national security and on the management of public resources by security sector agencies.²⁴⁰¹ The use of access to information laws has also made it

²³⁹⁹ OAS. Inter-American Juridical Committee, Proposal on an Inter-American Model Law 2.0 on Access to Public Information. 96th Regular Session, OEA/Ser. Q 2 – March 6, 2020; CJI/doc.607/20.

²⁴⁰⁰ UN. [Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. A/70/361](#). 8 September 2015, paras. 1, 5, 58-59. See also: American University School of International Service. [The State of Whistleblower & Journalist Protections Globally: A Customary Legal Analysis of Representative Cases](#). May 2015, paras. 3-5.

²⁴⁰¹ IACHR. Office of the Special Rapporteur for Freedom of Expression. October 30, 2018. [Relatoría Especial anuncia ganadores del concurso "Acceso a la Información Pública y Periodismo de Investigación" y destaca utilización del acceso a la información por parte del periodismo](#) [Special Rapporteur announces winners of “Access to Public Information and Investigative Journalism” contest and highlights use of access to information by journalists]; The New York Times. July 21, 2018. [How Times Reporters Use the Freedom of Information Act](#); Vice News. June 14, 2016. [Barbaric Conditions That Led to a Detainee’s Death Are Laid Bare in CIA Reports](#); 2014 Pulitzer Prizes (National Journalism), The Gazette. [Other than Honorable](#); The New York Times. June 23, 2014. [Court Releases Large Parts of Memo Approving Killing of American in Yemen](#); O Globo. June 5, 2016. [Sistema de transplantes no Brasil sofre com falta de transporte aéreo](#) [Transplant system in Brazil suffers from lack of air transport]; Republic of Chile. Council for Transparency. [Cuaderno de trabajo No. 11. Diez Años. Diez Casos ¿Cómo la Ley de Transparencia ha permitido detectar casos de corrupción e irregularidades en el Estado chileno?](#) [Workbook No. 11. Ten Years, Ten Cases: How has the Transparency Law made it possible to detect cases of corruption and wrongdoing in the Chilean State?]. September 2018. Article 19. [Acesso à informação para a garantia de direitos humanos](#) [Access to information for securing human rights]. 2013, pp. 8.

possible to obtain the release of information of public interest about state activities carried out in the name of national security.²⁴⁰²

164. At the same time, investigative journalism has been strengthened by the possibilities of data processing offered by new technologies, which have contributed significantly to providing information and analysis on issues of public interest and to reducing information asymmetry. Hence, access to information held by public authorities becomes a critical point in guaranteeing society's right to be informed. The Office of the Special Rapporteur has sought to support national and regional initiatives to promote the use of access to public information laws, open data, and the development of data journalism to help ensure the public's right to know.²⁴⁰³

165. In 2006, following a FOIA lawsuit filed by the Associated Press, the Pentagon published the names and nationalities of 558 Guantanamo detainees for the first time.²⁴⁰⁴ The case of *New York Times Co. v. United States* (1971), which arose from the publication of a classified report on U.S. involvement in the Vietnam War,²⁴⁰⁵ and revelations about mass communications surveillance programs that came to light in 2013, are two other landmark cases that exemplify the extent to which the press has worked to ensure the public's right to know.

166. In **Brazil**, through requests for access to public information and the construction of databases, a group of journalists found patterns to identify police officers linked to dozens of deaths in the State of Rio de Janeiro. Thanks to this reporting, the Public Prosecutor's Office decided to investigate the 20 military police officers involved in 10% of all confrontations that resulted in people being killed in the last five years, many of whom showed signs of having been executed.²⁴⁰⁶ In 2012 the organization *Conectas* used the access to information law to publish a document from the UN Subcommittee on Prevention of Torture that identified torture practices.²⁴⁰⁷ In addition, the access to information law and other sources allowed the *Fórum*

²⁴⁰² Bertoni, Eduardo. [Libertad de información. ¿Tres palabras inofensivas? Leyes de acceso a la información y rol de la prensa](#) [Freedom of Information - Three Harmless Words? Access to information laws and the role of the press]. CELE-UP / World Bank. 2011; Knight Center for Journalism in the Americas. [Journalism and access to public information in Latin America and the Caribbean. A Report of the 2013 Austin Forum on Journalism in the Americas](#). 2013; Derigan Silver. [The News Media and the FOIA](#). Communication Law and Policy, 21:4, 493-514. 2016. DOI: 10.1080/10811680.2016.1216686.; Fundación para la Libertad de Prensa. [El acceso a la información pública en Colombia. Entre el secreto y la filtración](#) [Access to Public Information in Colombia: From Secrecy to Leaking]. 2011.

²⁴⁰³ IACHR. Office of the Special Rapporteur for Freedom of Expression. October 30, 2018. [Relatoría Especial anuncia ganadores del concurso "Acceso a la Información Pública y Periodismo de Investigación" y destaca utilización del acceso a la información por parte del periodismo](#) [Special Rapporteur announces winners of "Access to Public Information and Investigative Journalism" contest and highlights use of access to information by journalists].

²⁴⁰⁴ El País. April 20, 2006. [El Pentágono hace públicos los nombres y nacionalidades de los 558 presos de Guantánamo](#) [Pentagon releases names and nationalities of 558 Guantanamo prisoners]; El País. March 4, 2006. [El Pentágono divulgará la lista parcial de los presos de Guantánamo](#) [Pentagon to release partial list of Guantanamo prisoners]; El Espectador. March 4, 2006. [Por primera vez se dieron a conocer nombres de detenidos en Guantánamo](#) [Names of Guantanamo detainees released for the first time]. La Nación. January 25, 2006. [Juez ordena revelar nombres de prisioneros](#) [Judge Orders Prisoner's Names to be Disclosed].

²⁴⁰⁵ Columbia University /Columbia Global Freedom of Expression. *New York Times Co. v. United States*. Available at: <https://globalfreedomofexpression.columbia.edu/cases/new-york-times-co-v-united-states/>; In *New York Times Co. v. United States*, known as the "Pentagon Papers" case, the Court dismissed an injunction that sought to keep the press from publishing parts of a classified government report entitled *History of U.S. Decision-Making Process on Vietnam Policy*. Some members of the Court considered that the First Amendment absolutely does not allow for any prior judicial restraint based on surmise or conjecture that adverse consequences may result, while others considered that the government had not met the heavy burden of proving that publication would likely result in direct, immediate, and irreparable harm to the nation (Cfr: IACHR, [Report on Terrorism and Human Rights](#), OEA/Ser.L/V/II.116 Doc. 5 rev. 1 corr. 2002, para. 313).

²⁴⁰⁶ IACHR. Office of the Special Rapporteur for Freedom of Expression. October 30, 2018. [Relatoría Especial anuncia ganadores del concurso "Acceso a la Información Pública y Periodismo de Investigación" y destaca utilización del acceso a la información por parte del periodismo](#) [Special Rapporteur announces winners of "Access to Public Information and Investigative Journalism" contest and highlights use of access to information by journalists]. See: O Globo (Fábio Teixeira e Igor Mello). November 26, 2017. [A tropa dos confrontos](#);

²⁴⁰⁷ Article 19. *Repressão às escuras. Uma análise sobre transparência em assuntos de segurança pública e protestos* [Repression in the dark. An analysis on transparency in public security matters and protests]. 2017, pp. 17-23. Available at: <https://artigo19.org/blog/2017/03/31/repressao-as-escuras/>

Brasileiro de Segurança Pública to obtain data showing that a person was murdered every half hour in the capital cities of Brazil during 2014.²⁴⁰⁸

167. In the case of **Colombia**, Journalists have played a fundamental role in guaranteeing the right of society as a whole to know about unlawful practices and expose spying against opposition politicians, judges, and journalists, as well as other human rights violations committed by security sector agencies.²⁴⁰⁹ In 2008, journalist Juan Esteban Mejía of *Semana* requested information on the circumstances in which ten people identified by the Army as members of illegal armed groups were killed.²⁴¹⁰ Before the cases known as “false positives”—that is, the systematic extrajudicial executions of thousands of civilians—became public, it was the press and civil society organizations that reconstructed the stories, demonstrating “that the military was killing peasants and passing them off as guerrillas killed in combat.”²⁴¹¹ In the investigation of these events, the journalist made a request for information from the Army, which was denied on national security grounds. The court that ultimately decided the case found that the National Army had failed to explain how national security could be jeopardized by the release of the information, having merely stated that it was a confidential matter.²⁴¹² The court further held that there was no evidence of any national security concerns because the matter concerned a past event.²⁴¹³

168. In February 2009, *Semana* magazine announced that the now defunct Administrative Department of Security (DAS) had intercepted the telephone communications of a large number of public figures, including members of the executive, legislative, and judicial branches, members of political parties, human rights defenders, and journalists, among others.²⁴¹⁴ Initiatives by Radio Nizkor, the *Consejo de Redacción* [Editorial Board] network, and projects such as *Rutas del Conflicto*, and others undertaken by journalists and the media, have facilitated public access to information collected by judicial bodies, as well as journalistic investigations and academic research on the war in Colombia.²⁴¹⁵ In 2018, *Semana* was awarded the “Access to Public Information and Investigative Journalism” prize for an investigation based on informants, interviews, and requests for access to information, which revealed a web of corruption in the Colombian Armed Forces. The investigation documented the embezzlement of funds earmarked for classified operations, which were used for the personal expenses of senior officials and for the illegal purchase of surveillance equipment intended

²⁴⁰⁸ Article 19. *Repressão às escuras. Uma análise sobre transparência em assuntos de segurança pública e protestos* [Repression in the dark. An analysis on transparency in public security matters and protests]. 2017, pp. 21. Available at: <https://artigo19.org/blog/2017/03/31/repressao-as-escuras/>

²⁴⁰⁹ Caracol Radio. June 9, 2009. [Claudia Julieta Duque, periodista que denuncia seguimientos e interceptaciones del DAS. Su caso hace parte de la investigación del CTI de la Fiscalía](#) [Claudia Julieta Duque, journalist who exposed DAS surveillance and interceptions. Her case is part of the CTI’s investigation of the Prosecutor’s Office]; Knight Center for Journalism in the Americas. [Tercera condena en caso de tortura psicológica contra periodista colombiana](#) [Third conviction in case of psychological torture against Colombian journalist]. October 2, 2015; *Semana*. May 9, 2010. [SEMANA ganó premio internacional de periodismo por investigación sobre las ‘chuzadas’](#) [SEMANA wins international journalism award for wiretapping investigation].

²⁴¹⁰ Periodismo por el Acceso a la Información Pública. [“Periodismo por el Acceso a la Información pública. Dossier de casos”](#) [Journalism for Access to Public Information: Case study]. Undated, p. 62.

²⁴¹¹ Proyecto Antonio Nariño. [Los retos para el acceso a la información en la implementación del acuerdo final entre el Gobierno y las FARC](#) [Access to information challenges in the implementation of the Final Agreement between the government and the FARC]. April 2017, pp. 37-38.

²⁴¹² Fundación para la Libertad de Prensa. [Informe sobre el estado de la libertad de prensa en Colombia 2008. La amenaza y la estigmatización: intimidaciones invisibles contra la prensa](#) [Report on the State of press freedom in Colombia 2008. Threats and Stigmatization: Invisible Intimidation of the Press]. 2009, pp. 74-75.

²⁴¹³ Periodismo por el Acceso a la Información Pública. [Dossier de casos](#) [Case file]. Undated, p. 59; Proyecto Antonio Nariño. [Los retos para el acceso a la información en la implementación del acuerdo final entre el Gobierno y las FARC](#) [Access to information challenges in the implementation of the Final Agreement between the government and the FARC]. April 2017, pp. 37-38.

²⁴¹⁴ CNN. September 12, 2017. [Condenan por ‘chuzadas’ a alto exfuncionario en Colombia y piden investigar al expresidente Álvaro Uribe](#) [Former Senior Official Under Fire for Wiretaps in Colombia amid Calls for Investigation of Former President Alvaro Uribe]; *Semana*. September 11, 2017. [La nueva condena a Jorge Noguera](#) [Jorge Noguera Convicted Again]; IACHR. Annual Report 2009. Chapter IV. Colombia, paras. 123, 172.

²⁴¹⁵ Knight Center for Journalism in the Americas. [Periodistas usan herramientas digitales para crear mapas interactivos de masacres en Colombia](#) [Journalists use digital tools to create interactive maps of massacres in Colombia]. January 25, 2017; Centro Nacional de Memoria Histórica. [Rutas del conflicto: periodismo transmedia para narrar lo que nos sucedió](#) [Routes of conflict: transmedia journalism to tell our story]. March 7, 2019. Consejo de Redacción. Featured investigations: <https://consejoderedaccion.org/investigaciones-destacadas#page-1>

for spying on political and social leaders and public figures who were perceived by some military leaders as enemies.²⁴¹⁶

169. The access to information law has also been used by journalists and organizations to investigate and expose violence and impunity for violence against journalists in the country.²⁴¹⁷ For instance, after the 2018 kidnapping and murder of Paúl Rivas, Javier Ortega, and Efraín Segarra, journalists from the Ecuadorian newspaper *El Comercio*, a petition drafted by FLIP and signed by 178 people asked the Ministry of Defense for access to a body of information related to their case. According to FLIP, although the Transparency and Access to Public Information Act establishes that information related to human rights violations may not be withheld, the Ministry failed to provide complete information. In response, FLIP filed a writ for the protection of constitutional rights [*tutela*], which was denied in the first instance and partially granted on appeal, giving the organization access to additional information that the Ministry had initially refused to disclose.²⁴¹⁸

170. In **Mexico**, according to statistical data processed by the National Institute for Transparency, Access to Information and Data Protection (INAI), between 2003 and September 2018, regulated federal entities received 1,703,333 requests for access to public information.²⁴¹⁹ During the October 2017 - September 2018 period, 0.7% of the requests for public information and personal data received were related to national security.²⁴²⁰ Furthermore, according to information systematized by the organization Article 19 in Mexico for 2003-2015, “the responses of the security and justice authorities are challenged before INAI three times more often than those of the other entities subject to the laws on transparency and access to information.” According to the organization, “[t]his is because the aforementioned authorities tend to withhold more information and deny a greater number of requests than other authorities. In 15.13% of all requests, security and justice authorities stated that the requested information did not exist, and in 13.54% of cases they refused to provide the information on the grounds that it was restricted or confidential.”²⁴²¹

171. In 2017, the Second Chamber of the Mexican Supreme Court ordered INAI to instruct the Office of the Attorney General of the Republic to hand over the names of the victims in each of the previous investigations into cases of the forced disappearance of persons linked to social and political movements in the 1970s and 1980s, rejecting the idea that access to such information could be restricted on the grounds of personal data protection.²⁴²²

B) Protection of journalistic sources related to national security

²⁴¹⁶ IACHR. Office of the Special Rapporteur for Freedom of Expression. October 30, 2018. [Relatoría Especial anuncia ganadores del concurso "Acceso a la Información Pública y Periodismo de Investigación" y destaca utilización del acceso a la información por parte del periodismo](#) [Special Rapporteur announces winners of “Access to Public Information and Investigative Journalism” contest and highlights use of access to information by journalists]; *Semana*. April 14, 2018. [Exclusivo: Escándalo en las FFMM, dineros camuflados](#) [Exclusive: Military Scandal, Camouflaged Money].

²⁴¹⁷ See, e.g.: Claudia Julieta Duque & Marvin David Del Cid, [El silenciamiento de los periodistas y la estruendosa impunidad en Colombia](#) [The Silencing of Journalists and Rampant Impunity in Colombia], Special report for the International Federation of Journalists and its subsidiary FSC-CCOO, Equipo Nizkor, Bogotá, August 7, 2017.

²⁴¹⁸ Fundación para la Libertad de Prensa. [Informe sobre el estado de la libertad de prensa en Colombia 2018](#) [Report on the State of press freedom in Colombia 2018]. 2018, pp. 54-55.

²⁴¹⁹ National Institute for Transparency, Access to Information and Data Protection (INAI). [Informe de labores 2018. Diciembre de 2018](#) [2018 Activity Report. December 2018], pp. 37; Table 2.1.

²⁴²⁰ According to the report, INAI processes the data on the subject matter of the requests from the information sent by the regulated entities. The institute does not check whether the classification of the subject matter was appropriate; it only processes the data recorded by the regulated entities. See Graph 2.2.

²⁴²¹ Article 19, Transparencia Intermittente. Los recursos de revisión del IFAI/INAI en materia de seguridad y justicia 2003-2015 [Intermittent transparency. The IFAI/INAI’s Appeals for Review concerning Security and Justice 2003-2015] soon to be released, pp. 24-25, cited in: Article 19. [Informe Anual 2017. Democracia simulada, nada que aplaudir](#) [Annual Report 2017. Simulated democracy, nothing to applaud]. March 2018, p. 31.

²⁴²² Second Chamber of the Supreme Court of Justice. Amparo Review 934/2016. March 29, 2017. Available at: <http://www2.scjn.gob.mx/ConsultaTematica/PaginasPub/DetallePub.aspx?AsuntoID=204170>; OSF. [A Victory for the Truth about Mexico’s “Dirty War”](#). February 8, 2017.

172. Journalistic work and the media are vitally important to the functioning of democracy, as they play an essential role in ensuring that society is informed and that there is a broad and vigorous public debate.²⁴²³ The IACHR's Declaration of Principles on Freedom of Expression expressly states that "[e]very social communicator has the right to keep his/her source of information, notes, personal and professional archives confidential." Particularly in the case of journalists covering sensitive issues, such as corruption and the activities of the security forces and organized crime, the Office of the Special Rapporteur has underscored that "the protection of confidential sources not only contributes to the press's fundamental role as watchdog but also helps to prevent journalists from becoming victims of violence."²⁴²⁴

173. The Tshwane Principles state that "[n]o person who is not a public servant should be compelled to reveal a confidential source or unpublished materials in an investigation concerning unauthorized disclosure of information to the press or public."²⁴²⁵ Similarly, the expert rapporteurs on freedom of expression have held that "[n]ormal rules on the protection of confidentiality of journalists' sources of information—including that this should be overridden only by court order on the basis that access to the source is necessary to protect an overriding public interest or private right that cannot be protected by other means—should apply in the context of anti-terrorist actions as at other times."²⁴²⁶

174. States should take the necessary measures to ensure that confidential sources and materials related to the disclosure of restricted information are protected by law.²⁴²⁷ In the digital era, the right to the confidentiality of sources may entail a set of additional positive obligations aimed at ensuring the privacy of communications and preventing state surveillance actions from being disproportionate and directly or indirectly violating or jeopardizing these rights.

175. The privacy of information in the digital age must be preserved. To this end, states must protect anonymity, as well as the encryption and inviolability of communications.²⁴²⁸ They must set limits on the power to monitor private communications and establish the necessity and proportionality of such surveillance in accordance with individual human rights and the principles of international law. Provisions on the mandatory registration of SIM cards and cell phones²⁴²⁹ and any other measure that could lead to intercepting communications outside the limits permitted by international law must also be legitimate and must not violate the confidentiality of sources.²⁴³⁰

C) Whistleblower protection

²⁴²³ I/A Court H.R., [Advisory Opinion OC-5/85](#). Compulsory Membership in an Association Prescribed by Law for the Practice of Journalism (Arts. 13 y 29 American Convention on Human Rights). November 13, 1985, paras. 70-71; IACHR. [Annual Report 2009. Report of the Office of the Special Rapporteur for Freedom of Expression](#). Ch. III (Inter-American Legal Framework of the Right to Freedom of Expression). OEA/Ser.L/V/II. Doc. 51. December 30, 2009, paras. 166 – 170.

²⁴²⁴ IACHR. [Annual Report 2013. Report of the Office of the Special Rapporteur for Freedom of Expression](#). Ch. III (Violence against Journalists and Media Workers: Inter-American Standards and National Practices on Prevention, Protection and Prosecution of Perpetrators). OEA/Ser.L/V/II.149 Doc. 50 December 31, 2013. Para. 54.

²⁴²⁵ Open Society Foundations/Open Society Justice Initiative. [The Global Principles on National Security and the Right to Information \(Tshwane Principles\)](#). June 12, 2013. Principle 48.

²⁴²⁶ The UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media, the OAS Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples' Rights Special Rapporteur on Freedom of Expression and Access to Information. [Joint Declaration on Defamation of Religions, and Anti-terrorism and Anti-extremism Legislation](#). December 10, 2008. See also: The UN Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples' Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information. [Joint Declaration on Freedom of Expression and Countering Violent Extremism](#). May 4, 2016. Recommendations. d.

²⁴²⁷ UN) Special Rapporteur on the Protection and Promotion of the Right to Freedom of Opinion and Expression and the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights. [Joint Declaration on surveillance programs and their impact on freedom of expression](#). June 21, 2013.

²⁴²⁸ IACHR. [Annual Report 2016. Report of the Office of the Special Rapporteur for Freedom of Expression](#). Ch. III (Standards for a free, open, and inclusive Internet). OEA/Ser.L/V/II CIDH/RELE/INF.17/17. March 15, 2017. Para. 231; UN. [Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, David Kaye](#). A/HRC/29/32. May 22, 2015.

²⁴²⁹ See: UN. [Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, David Kaye](#). A/HRC/29/32. May 22, 2015.

²⁴³⁰ IACHR. [Annual Report 2016. Report of the Office of the Special Rapporteur for Freedom of Expression](#). Ch. III (Standards for a free, open, and inclusive Internet). OEA/Ser.L/V/II CIDH/RELE/INF.17/17. March 15, 2017. Para. 231.

176. Globally, in recent years, several states have enacted some form of whistleblower protection as part of their national laws.²⁴³¹ However, different reports have called attention to the shortcomings of many of these regulations, as well as the fact that few countries have adopted comprehensive protections. Whistleblower protection in the security sector is generally inadequate or non-existent and exposes those who disclose information of public interest related to national security to the risk of penalties and retaliation under secrecy rules.²⁴³²

177. The United Nations Special Rapporteur has maintained that whistleblower protections in the national security and intelligence field “are often weak, or simply unavailable,”²⁴³³ and that therefore, “[t]hose who disclose wrongdoing in national security institutions are often subject to retaliation, such as job loss or transfer, denial or revocation of security clearance, and investigation, prosecution and harsh sentencing, and they lack redress because of legal doctrines that support an infrastructure of secrecy. Whistle-blowing’s main function thus loses all force, and while the lack of protection ultimately denies members of the public access to critical information about their Government, national security institutions also lose a tool of accountability.”²⁴³⁴

178. According to the information received by this Office during the consultation undertaken for the preparation of this report, the lack of comprehensive whistleblower protections in the area of national security is reflected in the national laws of the region.²⁴³⁵

179. In some jurisdictions—such as the United States—the issue of classified information disclosure and national security has been widely discussed in recent years. The Office of the Special Rapporteur for Freedom

²⁴³¹ International instruments and bodies aimed at combating corruption have recognized the importance of having whistleblower protection laws as part of an effective anti-corruption framework. See, e.g.: United Nations Convention against Corruption; Inter-American Convention Against Corruption, the OAS Model Law to Facilitate and Encourage the Reporting of Acts of Corruption and to Protect Whistleblowers and Witnesses; the African Union Convention on Preventing and Combating Corruption (2003). See also, Recommendation CM/Rec(2014)7 of the Committee of Ministers of the Council of Europe to member states on the protection of whistleblowers. A systematization of international standards in this area can be found at: UN-UNDOC. [Resource Guide on Good Practices in the Protection of Reporting Persons](#). 2016.

²⁴³² See, e.g.: UN. [Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. A/70/361](#). 8 September 2015, paras. 27, 43; Benjamin S. Buckland and Aidan Wills (DCAF), “[Blowing in the Wind? Whistleblower Protection in the Security Sector](#)” (working draft, September 2012), pp. 15-16, 110; G20 Anti-Corruption Action Plan. [Protection of Whistleblowers. Study on whistleblower protection frameworks, compendium of best practices and guiding principles for legislation](#). 2012. Para. 24, 50, 65.; Article 19. [Response to the Special Rapporteur Consultation on Protection of Journalists’ Sources and Whistleblowers](#). June 2015, pp. 10 -11; Reporters Without Borders. Whistleblowers need protection. Available for download at: <https://rsf.org/en/news/who-will-dare-talk-media-after-another-whistleblower-jailed>.

²⁴³³ UN. [Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. A/70/361](#). 8 September 2015. Para. 43.

²⁴³⁴ UN. [Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. A/70/361](#). 8 September 2015. Para. 43. See also: Benjamin S. Buckland and Aidan Wills (DCAF), “[Blowing in the Wind? Whistleblower Protection in the Security Sector](#)” (working draft, September 2012), Annex 1. Selected Whistleblowing Cases.

²⁴³⁵ According to the Agency for Access to Public Information of Argentina, the country’s Access to Public Information Act does not establish a regime of sanctions or penalties for the disclosure of classified information. However, penalties provided for in the National Criminal Code and specific regulations may apply. The *Centro de Estudios Legales y Sociales* (CELS) has stated that “there is no regulation protecting whistleblowers” who disclose information of public interest related to the security sector, and that criminal charges have been brought against those who disseminate information of public interest that was or is secret. The *Asociación por los Derechos Civiles* (ADC) noted that Article 17 of the Intelligence Act imposes a duty upon various officials to maintain the strictest confidentiality and secrecy, and that the law does not provide for exceptions of any kind to that duty. “This means, for example, that an intelligence agent who becomes aware of human rights violations during the course of his or her work may be subject to imprisonment for publicly reporting them.” In the case of Mexico, according to INAI, the “(Transparency and Access to Public Information) Act does not specifically establish penalties for the disclosure of national security-related information. However, it does establish a sanctions regime for failure to comply with the transparency and access to information obligations, and even authorizes the supervisory bodies to report facts believed to constitute crimes to the competent authorities. In the case of Honduras, the Institute for Access to Public Information stated that “Article 27(2), (28) and (29) of the LTAIP establish the disciplinary and criminal regulations for the disclosure of information classified as confidential for national security reasons.” The aforementioned Article 29 provides that when the violation of the Access to Public Information Act constitutes a crime, it will be punished under the Crimes against Public Administration provisions of the Criminal Code, Article 346 of which states that “anyone who disobeys an authority by openly refusing to comply with judgments, resolutions, or orders issued within the scope of its competence is subject to a term of imprisonment of 1 to 3 years.” In the case of Guatemala, according to the information provided by the Human Rights Ombudsperson, Article 67 of the Access to Public Information Act provides for a penalty of imprisonment of 5 to 8 years and special disqualification for twice the length of the sentence imposed, plus a fine of 50,000 to 100,000 Quetzales, for the disclosure of confidential or restricted information; “there is no provision for special attention in relation to national security information or the disclosure for reasons of public interest of classified information that evidences wrongdoing.”

of Expression of the IACHR noted with concern the position taken by the United States federal government on the protection of sources and whistleblowers and the announcements of several measures aimed at stopping government leaks to the press.²⁴³⁶ The United States has legal protection for whistleblowers in various areas, but in practice it is criminalized in certain cases, mainly those related to national security. For example, the Espionage Act of 1917 continues to be enforced, and a number of individuals who have reported alleged wrongdoing by national security agencies have been prosecuted.²⁴³⁷

180. Security sector agencies are generally less open to public scrutiny and have significant powers to safeguard large amounts of information, which can leave them more exposed to potential wrongdoing. In addition, they have significant powers to take a range of measures in the performance of their duties that may restrict or even violate human rights.²⁴³⁸ In order to ensure adequate protection in these cases, the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has recommended that “whistleblower” be defined broadly to protect those who are in the best position to know about possible irregularities.²⁴³⁹

181. In light of the events surrounding the disclosure of diplomatic communications by the Wikileaks organization and the subsequent publication of that information in the media (2010), and following the important revelations by Edward Snowden about the scope of various surveillance programs implemented by the United States (2013), the UN Special Rapporteur and the IACHR Special Rapporteur for Freedom of Expression emphasized several relevant international legal principles.²⁴⁴⁰

182. In line with these principles, states should: (i) establish regulations to guarantee that individuals who expose wrongdoing, serious maladministration, a breach of human rights, humanitarian law violations or other threats to the overall public interest, for example in terms of safety or the environment, should be protected against legal, administrative or employment related sanction, even if they have otherwise acted in breach of a binding rule or contract, as long as at the time of the disclosure they had reasonable grounds to believe that the information disclosed was substantially true and exposed wrongdoing or the other threats noted above;²⁴⁴¹ (ii) “Internal institutional and external oversight mechanisms”²⁴⁴² (should) should provide

²⁴³⁶ IACHR. Annual Report 2017. [Report of the Office of the Special Rapporteur for Freedom of Expression](#). Para. 593 *et seq.*

²⁴³⁷ American University School of International Service. [The State of Whistleblower & Journalist Protections Globally: A Customary Legal Analysis of Representative Cases](#). May 2015. Para. 204; Reporters Without Borders. [Freedom of information threatened by abuse of Espionage Act](#). 2016; Reporters Without Borders. [Annual Report 2013](#), pp. 78-80; Reporters Without Borders. [La denunciante Reality Winner, condenada a 63 meses de cárcel](#) [Whistleblower Reality Winner sentenced to 63 months in prison]. August 27, 2018.

²⁴³⁸ These and other factors are analyzed in: Benjamin S. Buckland and Aidan Wills (DCAF), [“Blowing in the Wind? Whistleblower Protection in the Security Sector”](#) (working draft, September 2012), pp. 17-20; See also: American University School of International Service. [The State of Whistleblower & Journalist Protections Globally: A Customary Legal Analysis of Representative Cases](#). May 2015, paras. 3-5; Open Government Partnership. [Open Government Guide \(Transparency & Accountability Initiative\)](#). June 2017, pp. 82-92.

²⁴³⁹ In its report on the protection of information sources and whistleblowers (2015) the Special Rapporteur explained that national laws often limit the definition of whistleblowers to those who report wrongdoing in the context of an employment relationship. However, it advised against this and adopted the following definition: a whistleblower is someone who discloses information and who, at the time of disclosure, has a reasonable belief that it is true and constitutes a threat or harm to a specific public interest, such as a violation of national or international law, abuse of authority, waste, fraud, or harm to the environment, health, or public safety. With respect to the scope of the definition of whistleblower and its differentiation from other categories such as journalistic sources and witnesses, see: Article 19. [Response to the Special Rapporteur Consultation on Protection of Journalists’ Sources and Whistleblowers](#). June 2015, p. 10.

²⁴⁴⁰ UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression. Special Rapporteur for Freedom of Expression of the IACHR. [Joint Statement on Wikileaks](#). December 21, 2010; United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression and the Special Rapporteur for Freedom of Expression of the OAS Inter-American Commission on Human Rights. [Joint Declaration on Surveillance Programs and Their Impact on Freedom of Expression](#). June 21, 2013, paras. 15-17.

See also: [Joint Declaration 2004](#). December 6, 2004; [Joint Statement on Wikileaks](#). December 21, 2010.

²⁴⁴¹ IACHR. Ch. III (Conclusions and Recommendations) OEA/Ser.L/V/II. Doc. 210/17 December 31, 2017. Para. 22. d. Similarly, see: The United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples’ Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information. [Joint Declaration on Freedom of Expression and Responses to Conflict Situations](#). May 4, 2015. Point 5.b; UN. [Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. A/70/361](#). 8 September 2015. Para. 63.

²⁴⁴² In this regard, the UN Special Rapporteur’s report stated that these mechanisms, when working properly, internal mechanisms provide a way for someone who perceives wrongdoing to seek a competent authority’s investigation. They allow for timely attention by those who may be in the best position to address problems, while also providing a basis for balancing legitimate interests in secrecy and the redress of wrongdoing. However, it stressed that internal mechanisms pose serious risks for whistleblowers. They often fail to

effective and protective channels for whistle-blowers to motivate remedial action. In the absence of channels that provide protection and effective remediation, or that fail to do so in a timely manner,²⁴⁴³ public disclosures should be permitted;²⁴⁴⁴ (iii) States should ensure that the disclosure of violations of human rights or humanitarian law can never lead to the application of penalties of any kind;²⁴⁴⁵ (iv) States should also ensure that measures to protect against retaliation are implemented in all public institutions, including those connected to national security;²⁴⁴⁶ (v) “[g]iven that prosecutions generally deter whistle-blowing, States should avoid them, reserving them, if at all, for exceptional cases of the most serious demonstrable harm to a specific legitimate interest. In such situations, the State should bear the burden of proving an intent to cause harm, and defendants should be granted (a) the ability to present a defence of an overriding public interest in the information, and (b) access to all information necessary to mount a full defence, including otherwise classified information”;²⁴⁴⁷ (vi) the whistleblower’s motivations at the time of the disclosure should also be immaterial “to an assessment of his or her protected status.”

183. As the UN Special Rapporteur has explained, “[i]t should not matter why the whistle-blower brought the information to attention if he or she believed it to be true,” and therefore “[a]pplication of protection should focus on the public interest information underlying the whistle-blowing.”²⁴⁴⁸

184. Similarly, the Tshwane Principles (Part VI) discuss some of the categories of information whose disclosure may give rise to enhanced protection, such as: (a) criminal offenses; (b) human rights violations; (c) international humanitarian law violations; (d) corruption; (e) dangers to public health and safety; (f) dangers to the environment; (g) abuse of public office; (h) miscarriages of justice; (i) mismanagement or waste of resources; (j) retaliation for disclosure of any of the above listed categories of wrongdoing; and (k) deliberate concealment of any matter falling into one of the above categories.²⁴⁴⁹ The Principles reaffirm that the motivation for a protected disclosure “is irrelevant except where the disclosure is proven to be knowingly untrue.”^{2450 2451}

include strong measures to ensure confidentiality and independence from the organization in which they operate, and place informants in a situation where they may face the risk of retaliation. With that in mind, “If states aim to have working whistle-blowing procedures that reduce public disclosure, they must ensure the effectiveness and trust in the full independence of whistle-blowing processes.” When whistleblowers “reasonably perceive” that these internal institutional mechanisms do not provide for effective corrective and protective measures, they should be able to use two other external ways of disseminating information, whether in a non-public manner such as through an ombudsperson, or publicly through, for example, the media (Cfr: [Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. A/70/361](#). 8 September 2015. Paras. 34-38).

²⁴⁴³ The Special Rapporteur’s report stated that potentially effective internal or oversight processes may be overridden in certain cases where there is an extraordinary interest in ensuring the right to know. For example, public disclosure of serious violations of international human rights law, international humanitarian law or other fundamental rights in a State’s constitutional or statutory framework should be encouraged regardless of the effectiveness of internal mechanisms. It stated that the same may hold true where the value of the public’s knowledge of the information depends upon its timely or urgent disclosure. The public has an overriding interest in knowing of allegations of serious violations of fundamental legal norms (Cfr: UN. [Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. A/70/361](#). 8 September 2015. Para. 38).

²⁴⁴⁴ UN. [Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. A/70/361](#). 8 September 2015. Para. 64.

²⁴⁴⁵ UN. [Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. A/70/361](#). 8 September 2015. Para. 64.

²⁴⁴⁶ UN. [Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. A/70/361](#). 8 September 2015. Para. 64.

²⁴⁴⁷ UN. [Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. A/70/361](#). 8 September 2015. Para. 65.

²⁴⁴⁸ UN. [Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. A/70/361](#). 8 September 2015. Para. 31. On this point, Principle 38 (b) of the Global Principles on National Security and the Right to Information states: “The motivation for a protected disclosure is irrelevant except where the disclosure is proven to be knowingly untrue.”

²⁴⁴⁹ Open Society Foundations/Open Society Justice Initiative. [The Global Principles on National Security and the Right to Information \(Tshwane Principles\)](#). June 12, 2013. Principle 37.

²⁴⁵⁰ Open Society Foundations/Open Society Justice Initiative. [The Global Principles on National Security and the Right to Information \(Tshwane Principles\)](#). June 12, 2013. Principle 38.

²⁴⁵¹ Open Society Foundations/Open Society Justice Initiative. [The Global Principles on National Security and the Right to Information \(Tshwane Principles\)](#). June 12, 2013. Principles 40, 41.

185. Finally, the Office of the Special Rapporteur reiterates that under no circumstances may journalists, members of the media, or members of civil society who have access to and disseminate classified information because they consider it to be in the public interest be subject to subsequent penalties.²⁴⁵²

Chapter V – ROLE OF THE PRIVATE SECTOR

186. As established by the Inter-American system and reaffirmed in the Model Inter-American Law on Access to Public Information, this right is also binding on private organizations that perform public functions, provide public services, or execute public resources on behalf of the State. With respect to the latter, the right of access requires them to turn over information exclusively on the management of public resources, the provision of services under their responsibility, and the performance of the aforementioned public functions.²⁴⁵³

187. Security companies are playing an increasing role in communications surveillance activities for national security purposes and in other state intelligence, military, and defense matters that have human rights implications. Various international bodies have issued statements on the responsibility of companies in the area of human rights. In 2011 the UN Human Rights Council adopted the Guiding Principles on Business and Human Rights which declare that while states are the primary holders of human rights obligations, corporations must also refrain from violating the human rights of third parties and must remedy violations in which they are directly or indirectly involved. In complying with these principles, businesses must undertake to prevent violations directly or indirectly related to their operations, products, or services and to mitigate the consequences even when they have not contributed to their creation.²⁴⁵⁴

188. Consistent with the above, the Tshwane Principles recognize that “business enterprises within the national security sector, including private military and security companies, have the responsibility to disclose information in respect of situations, activities, or conduct that may reasonably be expected to have an impact on the enjoyment of human rights.”²⁴⁵⁵

189. Accordingly, i) states should ensure that access to public information laws are applied broadly and within the limits set out above to guarantee access to information about the management of public resources, the delivery of services, and the performance of public functions by non-state entities; ii) as part of the duty to protect, states should promote the responsibility of security sector companies with respect to human rights and conduct adequate oversight of companies’ adherence to human rights laws, exercising the necessary regulatory powers; and iii) companies have a responsibility to disclose information that has an impact on the exercise of human rights.

Chapter VI – CONCLUSIONS AND RECOMMENDATIONS

190. The region has achieved significant progress in recognizing the right of access to information at the constitutional level, both through laws guaranteeing its exercise and through decisions by national courts, supervisory bodies, and appellate bodies that review denials of access. Nevertheless, the Office of the Special Rapporteur acknowledges that there are significant challenges, both for those states that have made progress and for those that have yet to adapt their legal framework to recognize and protect the right of access to information.

²⁴⁵² UN Special Rapporteur on the Protection and Promotion of the Right to Freedom of Opinion and Expression and the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights. June 21, 2013. [Joint Declaration on Surveillance Programs and Their Impact on Freedom of Expression](#).

²⁴⁵³ See: IACHR. Office of the Special Rapporteur for Freedom of Expression. [The Inter-American legal framework regarding the right to access to information. Second edition](#). OEA/Ser.L/V/II. CIDH/RELE/INF. 9/12. March 7, 2011. Paras. 19-20; OAS. AG/RES. 2607 (XL-O/10). [Model Inter-American Law on Access to Public Information](#). June 8, 2010.

²⁴⁵⁴ United Nations. Office of the High Commissioner for Human Rights. [Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework](#). 2011. Principle No. 11, p. 15.

²⁴⁵⁵ Open Society Foundations/Open Society Justice Initiative. [The Global Principles on National Security and the Right to Information \(Tshwane Principles\)](#). June 12, 2013. Principle 1.

191. The Office of the Special Rapporteur has identified obstacles arising from the vagueness and imprecision of regimes of exceptions, including the restriction or classification of information for purposes of protecting legitimate national security interests. For example, provisions that establish or appear to establish generic and automatic classifications; problems caused by the misinterpretation or misapplication of the harm and public interest test; and the coexistence of regulations that are at odds with transparency, such as intelligence laws, laws on records and the classification of national security interests, and personal data protection laws, among others.

192. In this report, the Office of the Special Rapporteur also highlighted the serious obstacles that victims of human rights violations, their relatives, and the authorities in charge of investigating, determining the truth, prosecuting, punishing, and redressing these violations have experienced in gaining access to information held in the archives of security sector and other state agencies. There are persistent legal and *de facto* restrictions that hinder real and effective public access to the records whose disclosure is essential for the protection of human rights and the establishment of the truth. Among the best practices found in several countries, the Office of the Special Rapporteur highlights the adoption of provisions that explicitly prohibit the application of exceptions to information about violations of human rights and international humanitarian law.

193. Access to public information laws and other regulations have established the State's obligation to disclose certain categories of key information on its own initiative. However, gaps in compliance and the absence of provisions that encourage security sector agencies to proactively produce and disclose information of public interest mean that this remains an ongoing challenge.

194. The report also discusses restrictions resulting from the lack of oversight of the information classification procedures followed by security and intelligence agencies and bodies, which in many jurisdictions operate beyond the reach of the entities that guarantee the right of access to information and even beyond the reach of the judiciary.

195. The region also faces persistent challenges related to the adoption and appropriate implementation of whistleblower protection mechanisms and the need to reinforce the protection of journalistic sources, which have been addressed in this report because of the role these mechanisms play in guaranteeing the public's right to know.

In view of the region's ongoing challenges that have been highlighted in this report, the Office of the Special Rapporteur for Freedom of Expression makes the following recommendations to the member states of the OAS:

1. Laws regulating the right of access to public information should have a broad scope and states should adopt the tenets of maximum disclosure and good faith as guiding principles on the right of access to information in all areas of government. Intelligence agencies should be subject to public scrutiny and independent oversight.
2. States should take all necessary measures and remove barriers to guarantee, in their legislation and in practice, the right of individuals to access information related to national security. The exercise of this right may only be restricted under the strict requirements of Article 13(2) of the American Convention, within the limits set by the inter-American bodies.
3. Any limitations imposed on access to information must be strictly exceptional and meet the requirements of legality, necessity, and strict proportionality that have been developed in this report. Secrecy laws should precisely define the concept of national security and clearly specify the criteria for determining whether certain information can be classified as secret, in order to ensure that the classification of public interest information on alleged national security grounds is not abused. States should review and, to the extent necessary, repeal or amend legislation restricting access to information so that it is consistent with international standards in this area.
4. For the purpose of enacting, adapting, or implementing national laws and other supplemental rules governing access to information and the classification of information related to national

security, the Office of the Special Rapporteur encourages member states to follow the inter-American standards and embrace the Tshwane Principles. It is critical to establish formal procedures for the declassification of information, active transparency, and the presumption of openness in various areas that cannot have any real and effective impact on security interests.

5. The States of the region must take steps to establish a public policy on records pertaining to serious human rights violations, as a precondition for guaranteeing the right to know, the right to truth, the construction of a collective memory, and for preventing the repetition of these crimes. In addition, states should take the necessary measures to ensure, in law and in practice, that information on serious human rights violations and breaches of international humanitarian law cannot be classified for national security reasons under any circumstances, or hidden or destroyed.
6. Take the necessary measures to ensure that all human rights monitoring bodies, ombudspersons, and courts have access to national security archives—regardless of their level of confidentiality—when relevant to investigations of human rights violations under their respective mandate or jurisdiction. In these cases, they should also maintain the confidentiality of all information that has been legitimately classified under inter-American standards, until the outcomes of the investigation are known and the relevance of keeping the information confidential can be evaluated.
7. In implementing measures to strengthen the right of access to information and the protection of human rights, states should consider that there is a compelling public interest in the disclosure of information that helps ensure the transparency of the framework, conditions, and outcomes of state surveillance activities, in a manner consistent with international standards. Certain categories of information that allow citizens to have knowledge of the State's actions in this field, and to prevent and detect abuses, should be disclosed when requested—without revealing the targets of the surveillance—or published when it comes to procurement and spending on surveillance technology.
8. Promote the implementation of international principles that recognize that companies in all sectors, including private military and security companies, have a responsibility to disclose information regarding situations, activities, or conduct that may reasonably have an impact on the enjoyment of human rights.
9. Adopt the necessary legal reforms and guarantee a sufficient budget to strengthen the institutional structure for monitoring the implementation of public information access laws, in keeping with the standards and recommendations issued by this Office in its thematic report on Specialized Supervisory Bodies for the Right to Access to Public Information
10. Adopt or adapt and effectively implement supplemental laws and regulations to guarantee, in law and in practice, the right of journalists and persons professionally engaged in the gathering and dissemination of information to the public through any media the protection of the identity of their sources of confidential information from direct and indirect exposure, including interference through surveillance.
11. Adopt, adapt, and implement national whistleblower protection frameworks. The law should ensure that those who expose wrongdoing, gross mismanagement, human rights violations, violations of humanitarian law, or other threats to the general public interest are protected from legal, administrative, or employment-related penalties, even when their actions violate a rule or contract, so long as at the time of disclosure they had reasonable grounds to believe that the information disclosed was substantially true and exposed information about harm to public interests or potential human rights violations. Measures to protect whistleblowers from retaliation should be implemented in national security institutions.
12. The Office of the Special Rapporteur reaffirms the important work of judges and the relevant supervisory bodies in ensuring the judicial and administrative protection of the right of access to public information. It encourages states to guarantee and strengthen the independence of the

judiciary and the autonomy of the supervisory bodies, in law and in practice. It also encourages states to continue to systematically train and educate public servants on the right of access to public information, its scope, and its conventional, constitutional, and legal protection.