

## **Annex to the Press Release 301/19**

174th Period of Sessions

### **Hearing No. 1. Case 12.204 Asociación Mutual Israelita Argentina (AMIA) v. Argentina**

This case concerns the attack on the headquarters of the Asociación Mutual Israelita Argentina (AMIA) in Buenos Aires on July 18, 1994, in which 85 people lost their lives. The purpose of the hearing was to hear the testimonies of Ms. Diana Wassner and Ms. Adriana Reisfeld, who are relatives of people who died in the attack, and to hear the parties' oral arguments on the merits of the case. The petitioners pointed out that the Argentinian state has failed to comply with its duty to prevent and investigate into the attack and punish those responsible for it, and they expressed their concern over the amount of time that has gone by without justice having been done. In their opinion, the fact that events have not been clarified does not owe simply to a lack of due diligence but is also explained by mechanisms of concealment implemented by all state apparatuses. The state expressed its regret over the facts of the case and noted that in 2005 it acknowledged its international responsibility for having failed to comply with international standards on prevention, investigation, and the punishment of those responsible for the attack. It also reiterated its willingness to resume negotiations and take part in a new friendly settlement process, but this proposal was rejected by the organizations and victims. The IACHR will rule on the merits of this case in the report it will adopt on the matter.

### **Hearing No. 2. Amnesty Law in Nicaragua**

The petitioner organizations stated that Nicaragua's Amnesty Law, which was passed to enable people who were arrested during the recent protests in the country to be released from prison, is too broad and ambiguous and may be applied to people who are responsible for serious human rights violations. Specifically, the organizations criticized the fact that the law was passed unilaterally by the Legislative Assembly: there was no process of prior consultation with civil society, nor did the victims of the events that took place during the demonstrations participate in creating it. They also pointed out that the law does not respect victims' right to reparation nor does it include guarantees of nonrepetition, as beneficiaries of the law can be rearrested for exercising their political rights and the rights to peaceful assembly, freedom of association, and freedom of expression. It also added that even when criminal proceedings are archived as a result of this law, beneficiaries continue to maintain the status of "accused," which generates legal insecurity and uncertainty. The IACHR expressed its regret over the absence of an official delegation from the state of Nicaragua at the hearing. It also reiterated its concern over the fact that the law is incompatible with intra-American standards on memory, truth, justice, and added that Nicaragua is not an isolated case in the region—this incompatibility is one of the main obstacles to eliminating impunity in the Americas.

### **Hearing No. 3. Challenges to the Autonomy and Independence of the Nicaraguan Legal System**

During the hearing, the petitioners discussed the lack of judicial independence in Nicaragua. They argued that due to their political party affiliations and family ties, agents and officials from Nicaragua's National Police Force, the Public Prosecutor's Office, the Forensic Medical Institute, and the judiciary go about their work in a coordinated fashion that is overseen and directed by the national government so as to omit investigations into cases of victims of state repression during the sociopolitical crisis that

began in Nicaragua in April 2018. This is especially true in the case of fatal victims and also applies to flawed processes to criminalize people who are identified as dissidents. The state did not appear at the hearing nor did it submit written evidence. The IACHR drew particular attention to the creation of teams of judges and prosecutors with ties to the incumbent political party who oversee these criminalization processes. It also underlined the serious limitations to the right to defense in the country, such as the use of anonymous witnesses and the absence of signs of upcoming reforms to improve judicial independence.

#### **Hearing No. 4. The Gender Approach in Human Rights Policies in the Americas**

The petitioner organizations noted with concern that various religious organizations are influencing states in the region in relation to the creation or modification of regulations and/or public policies that affect human rights such as education, healthcare, and the right to a life free from violence, particularly in connection with women and children. This is incompatible with democratic values and the secular nature of states. The petitioner organizations have identified that some fundamentalist religious organizations are opposing the use of the gender approach to when designing and implementing public policies, which they label “gender ideology.” In response, the organizations asked the IACHR to prepare a regional report on how religious fundamentalism impacts the human rights agenda, especially the rights of children and adolescents, and to establish minimum standards that states must guarantee in these cases. They also asked the IACHR to urge states to guarantee the rights to education on sexual and reproductive health for children and adolescents and to establish procedures for participation while respecting their autonomy. They drew attention to the need for the IACHR to remind states of their obligation to adopt specific measures to modify the sociocultural patterns of heteronormative culture, including by designing formal and informal education programs to counteract deep-rooted prejudice. The IACHR emphasized that discourses that run counter to the principle of using the gender approach in public policies pose a threat to the progress on this matter that has been recognized by international and regional human rights systems. They also pose a threat to the right to education.

#### **Hearing No. 5. Violence and Citizen Security in El Salvador**

The petitioner organizations discussed the high levels of violence and criminal activity in El Salvador and acknowledged that the current government is implementing major steps to reduce the homicide rate. However, they also spoke out against the fact that the state is using hardline policies and militarizing citizen security as its main approach to combating violence. As a result, they argued that the abusive use of force has increased among state security agents and that gang activity is on the rise. They spoke out against restrictions on the rights and freedoms of people who are being held under antiterrorism laws and the lax approach to investigations into violent crime. The petitioner organizations noted that of the more than 18,000 people who have been arrested in connection with terrorist activity, 7,000 of those being held in pretrial detention have been acquitted, while prison overcrowding has led to a series of cases of tuberculosis and malnutrition. The state drew attention to the fact that the Territorial Control Plan has helped El Salvador achieve the lowest homicide rate since the peace agreements between rival gangs were reached. It also noted that protocols have been created to coordinate actions between security forces and that internal and external mechanisms are in place regarding alleged human rights violations on the part of the police and the armed forces. The IACHR drew attention to its upcoming visit to El Salvador, which it sees as a major opportunity for reviewing the country’s citizen security strategy. It also praised the efforts that led to the creation of the International Commission Against Impunity in El Salvador (CICIES).

**Hearing No. 6. Forced Displacement Due to Violence in El Salvador**

The petitioners explained that through ruling 411-17, the Constitutional Division of the Supreme Court of Justice has declared that forced displacement due to violence is taking place in El Salvador and has ordered that measures be implemented to address this. However, they noted that the deadline for these measures has passed but no normative framework to protect victims has been put in place. They also noted that the state has signed an agreement with the United States that would allegedly form part of a safe third-country agreement due to the commitments it contains. They pointed out that these kinds of agreements focus on migration and not on the problem of forced displacement, which entails people being forced into irregular migration. The state argued that it has recognized violence as being one of the causes of forced displacement, as a result of which its institutions have implemented a series of preventive measures that derived from the ruling mentioned above. These actions allegedly include the creation of an intersectoral roundtable; workshops to obtain inputs for public policy creation; an action protocol; and a draft law on forced internal displacement with an emphasis on violence, organized crime, and gangs. The IACHR expressed its concern over the fact that the state has not spoken out on the vulnerability faced by LGBTI people in the context of forced displacement. The IACHR also stressed the importance of actions to measure how far the ruling of the Constitutional Division of the Supreme Court of Justice is being complied with.

**Hearing No. 7. Sexual Violence Against Children and Adolescents in Peru**

The petitioner organizations pointed out that despite the fact that Peru has ratified major international instruments for the protection of children and adolescents and adopted various measures on this issue, there are ongoing challenges to overcoming sexual violence against them in the country. They reported that in 2018, there were 2,344 cases of pregnancies among girls under the age of 14. Over four years, the number of sexual crimes has increased by 25%, and in 2018, cases involving girls and adolescents accounted for 83.4% of the total. The state stressed that it has been implementing public policies to address this problem, such as increasing the number of available individual interview rooms to 40 and the number of Gesell rooms to 99, in addition to training agents from the judiciary and forensic medicine institutes. It also drew attention to the importance of cross-sectoral actions that have been designed as part of a protection system for women victims and members of their families, including children and adolescents. The IACHR noted how important it is that the state has recognized this problem and expressed its openness to dialogue. However, it deemed that further efforts were still needed in the fight against sexual violence. The IACHR also highlighted the importance of gender-sensitive education and sex education as a way of empowering children and adolescents to exercise their sexual rights and preventing episodes of violence. The IACHR underlined its capacity for providing technical cooperation in this area and said that it was available to both civil society and the state for this purpose.

**Hearing No. 8. Judicial Reform in Peru**

Civil society organizations expressed concern over the way in which the state will guarantee judicial independence; the independence of constitutionally autonomous bodies; and the transparency and efficiency and the process for implementing the Comprehensive Judicial Reform, specifically the creation of the National Board of Justice (JNJ). The organizations asked the IACHR to observe this process closely. The state explained the procedures that have been adopted to ensure this process is implemented in accordance with the law. It also indicated that despite the fact that the first attempt to complete the selection process for new magistrates was unsuccessful, measures have been taken to ensure this will

now be implemented effectively. According to the proposed schedule, the new magistrates will be selected by January 2020. The IACHR called on the state to comply with inter-American standards on the matter and to show evidence of acting in a transparent, coherent fashion to fight corruption and implement the comprehensive reform of the judicial system. It also offered to provide technical support for this process.

#### **Hearing No. 9. Case 13.095 A.B. and S.H. v. Jamaica**

This case relates to the impact of the Jamaica Offences Against the Person Act, specifically sections 76, 77, and 79 which apparently criminalize consensual sexual relationships between people of the same sex. The state did not appear at the hearing, but this went ahead all the same on the grounds that article 64.3 of the IACHR's Rules of Procedure stipulates that if a party that has been duly notified of the hearing does not attend, the IACHR shall nonetheless proceed to hold the hearing in question. The petitioner argued that the Offences Against the Person Act legitimizes a context of discrimination against LGBTI people. Specifically, they stressed that the law would impact access to healthcare, especially for the prevention and care of HIV/AIDS, since men who have sex with men are at greater risk of infection, and a context that criminalizes such practices would prompt fears of their being subjected to discrimination or criminal prosecution should they disclose their sexual orientation or practices to a doctor. The petitioners mentioned that Jamaica has the highest HIV rate in the Caribbean and that a large part of the population would not receive treatment due to fear of being discriminated against or criminalized. The IACHR will rule on the merits of this case in the Admissibility and Merits Report it will adopt on the matter.

#### **Hearing No. 10. Obstacles in the Quest for Truth and Justice in Uruguay**

The petitioner organizations that requested the hearing pointed out that Uruguay is facing serious obstacles on the matter of justice, truth, and reparation for the grave human rights violations that took place in the country between 1973 and 1985. They noted that only 9% of the 187 cases that are currently open have gone to trial, 13 of which have led to convictions. They added that 84% of the 196 people who disappeared while under arrest have not been found. The organizations pointed out that the Supreme Court of Justice has repeatedly failed to observe international legal obligations by concluding that crimes against humanity carried out by state agents are subject to a statute of limitations. They spoke out against practices on the part of the judiciary that allegedly delay trials unnecessarily and also mentioned that the state archives are disorganized and hard to access. The state reported that it has made several efforts to shed light on the crimes against humanity that took place in Uruguay between 1973 and 1985, such as by creating the Working Group for Truth and Justice, an expert team on crimes against humanity, and an Expert Prosecutor's Office, and by passing Law 19822. The state added that the judiciary has included a human rights module in the training program for judges and aspiring magistrates. The IACHR expressed appreciation for the human rights training provided by the judiciary but spoke of its concern over the lack of access to case files, which violates the right to truth. Finally, the IACHR recommended that the state raise the profile of children and adolescents who were victims during the period in question and that it speed up investigations, in line with international standards on the matter.

#### **Hearing No. 11. Violation of the Rights of Indigenous Peoples in Mexico**

Civil society organizations presented information on how the Mexican state's current agrarian regime, which was established at the beginning of the 20th century, allegedly violates the rights of indigenous

peoples to their lands, territories, and natural resources and to self-determination. They argued that the institutions responsible for brokering indigenous peoples' efforts to have their rights to their territories recognized are facing a series of problems, including budget shortages, corruption, and the absence of human rights approach in their actions and decisions. The state mentioned that a reform of Mexico's agrarian legislation is currently being debated in Congress and that a process of dialogue and consultation was started in 2019 regarding reforms on indigenous matters. It also acknowledged the outstanding challenges relating to the agrarian regime and recognized the need to step up efforts to comply with international human rights standards. The state delegation invited the IACHR to visit Mexico to provide technical support for the participatory processes discussed in the hearing. The IACHR thanked the delegation for the invitation and said that it would be willing to provide this technical support.

### **Hearing No. 12. The Functioning of the National Victim Care System in Mexico**

The petitioners who requested the hearing stated that the General Law on Victims was passed in response to a demand on the part of victims to be recognized as subjects of rights. They noted that the law sought to bring about a paradigm shift in care for victims, but that there have been several problems in implementing it. They drew attention to the following problems: there are no clear procedures for obtaining assistance; work is needed on collective reparation plans; there is a lack of understanding of the impunity faced by victims and how this impacts their suffering; there are no consultations with victims; there is a lack of coordination between offices; registering as a victim can involve victimization; and there is a shortage of staff at the registry. They also argued that for the system to function appropriately, other state authorities need to be involved in addition to the Executive Committee for Victim Assistance (CEAV), such as the Office of the President of the Republic. In response, the state said that it shared the petitioners' opinion on the obstacles and challenges facing the law itself and the process of implementing this. It indicated that the law seeks to take a crosscutting perspective on victim care and that as the operational body overseeing the system, the CEAV has managed to proceed with its work even though the system as a whole has not held a plenary meeting since being established. The state drew attention to several of the CEAV's powers with regard to assisting victims and said that civil society's concerns over how the CEAV is functioning could be the subject of open debate or even legal reform. The IACHR underscored the importance of coordinating between all the bodies responsible for guaranteeing comprehensive protection for victims and of taking victims' opinions into account when designing the action plan.

### **Hearing No. 12A. The Human Rights Situation During the Social Protests in Chile**

The civil society organizations and autonomous bodies that took part in the hearing stated that human rights violations have become widespread in Chile when people exercise their right to legitimate social protest in the country, both during the recent state of emergency and in the aftermath of this. The organizations reported on the excessive use of force by security agents and the fact that numerous types of serious injuries had been recorded, including injuries caused by the impact of ballistic and nonballistic projectiles and acts of torture, sexual violence, illegal arrests and violence against children, adolescents, women, and LGBTI people. In connection with this, the organizations asked the IACHR to demand that the state cease the current wave of repression and human rights violations, with a view to implementing a process to ascertain the truth, establish who is responsible for events, and provide reparation for victims. For its part, the state claimed that the declaration of the state of emergency and the actions of its security forces were due to the need to take on acts of violence and put an end to arson, looting, and other forms of aggression. In this regard, representatives of the Chilean state

confirmed their unreserved commitment to human rights, which are inseparable from the values of democracy and the rule of law in Chile. Finally, the IACHR underlined its concern regarding the information that has been gathered on the situation, especially the reports of violence against journalists, demonstrators, and, in particular, children and adolescents. The IACHR reiterated its interest in visiting the country, which state authorities have requested and accepted, with a view to observing the human rights situation in the context of the current social protests and to continue gathering information on how the state is acting.

#### **Hearing No. 13. Case 12.569, Quilombolas Communities in Alcântara v. Brazil**

This case relates to the expropriation promoted by the state to make aerospace projects viable in Alcântara, specifically by establishing a military base, allegedly within the territory of the Quilombola communities. The purpose of the hearing was to receive four statements and to hear oral arguments from the parties on the merits of the case. The IACHR received statements from Deborah Macedo Duprat de Britto Pereira (witness, public attorney) and Alfredo Wagner Berno de Almeida (expert witness, anthropologist), suggested by the petitioners. The IACHR also received statements from Sergio Antonio Frazão Araujo (witness, veterinarian, and epidemiologist) and André Barreto Paes (witness, Brazilian Space Agency), suggested by the State of Brazil. The petitioners alleged that this expropriation is a serious violation of the affected communities' human rights, as are other actions against them that included the displacement of parts of these communities, interferences in the way of life of all communities in the territory, and the lack of title deeds to the land in question. The state argued that it has acted in accordance with the relevant legal framework and that the living conditions of the local population has allegedly improved following the establishment of the military base in Alcântara as a result of different state initiatives, and also pointed out that the activities on the base would lead to local development. The IACHR will continue to work on the case study for the Merits Report that it will adopt on this matter.

#### **Hearing No. 14. Aggression Around Freedom of Religions African Origin in Brazil**

The petitioner organizations drew attention to acts of violence and systematic attacks on practitioners and temples of religions of African origin in Brazil. They noted that despite the existence of legislation criminalizing religious discrimination, the number of cases of discrimination against religions of African origin increased by 47% from 2017 to 2018. The state confirmed its commitment to the principles of nondiscrimination, freedom of thought, conscience, religion, and belief. In connection with this, it mentioned campaigns and initiatives that focus on combating religious intolerance. The IACHR underscored the state's duty to conduct investigations with due diligence and to implement effective sanctions against the perpetrators of such attacks.

#### **Hearing No. 15. The Situation of Transgender People Migrating to the United States**

Civil society organizations provided information on the vulnerability of trans people who have migrated to the United States in search of a life free from stigmatization and discrimination. They highlighted the need for disaggregated statistical data and noted that the state needs to fully protect these people's human rights, including the right to seek international protection and the observance of the principle of nonrefoulement. The state reiterated its commitment to guaranteeing the human rights of all people under its jurisdiction, including trans people, and explained the ways in which migrants can seek asylum and refuge in the US, noting that migration authorities have specialized care protocols for people whose personal conditions place them in a particularly vulnerable situation. The IACHR thanked the petitioners

for the information they provided and restated its concern over the particular vulnerability of trans women. Finally, it once again noted the importance of special measures to protect trans migrants, be it through legislation or public policy.

#### **Hearing No. 16. The Impact of Gun Violence in the United States**

The petitioners noted that an ever-increasing number of people are killed and injured by gun violence in the United States, and that this situation allegedly has a disproportionate impact on people of African descent, women, children and adolescents. They pointed out that easy access to firearms increases the number of cases of intrafamily violence, urban violence, and mass shootings, and also contributes to increasing violence outside the country through both legal and illegal channels. They also expressed their concern over the absence of laws and public policies to prevent gun violence and treat survivors and victims' relatives. The United States noted that the provisions of the American Declaration of the Rights and Duties of Man are not binding and that it cannot be held internationally responsible for criminal acts committed by private individuals who are not acting on state instructions. It also noted that the US Constitution guarantees the right to bear arms and that US states have gun-control laws and mechanisms to reduce unhindered access to firearms. The IACHR observed that there is consistent research demonstrating the correlation between greater numbers of firearms and higher levels of violence and human rights violations. Finally, the IACHR reiterated that it is states' responsibility to guarantee the security, integrity, and dignity of those residing in their territory, and that this is a universal condition for the respect of human rights. States are thus responsible for preventing human rights violations and protecting survivors of abuse.

#### **Hearing No. 17. The Violation of the Human Rights of LGBTI People of African Descent in the Americas**

Civil society organizations presented information on the human rights situation of LGBTI people of African descent in Brazil, Colombia, Peru, and the Dominican Republic, with particular emphasis on the discrimination and violence against trans women of African descent. In their presentation on the situation of LGBTI people in the region, the petitioner organizations underscored the importance of crosscutting analysis. They also expressed a need for the IACHR to monitor states' compliance with the recommendations it has made in its thematic reports on LGBTI people and people of African descent, especially those relating to the creation of public policies to ensure that these people's rights are effectively guaranteed. The IACHR thanked the organizations for the information they provided and expressed its concern over how widespread violence against LGBTI people in the Americas is, particularly against trans women. It also stressed the importance of taking a crosscutting approach to analyzing the situation of LGBTI people of African descent.

#### **Hearing No. 18. The Status of the Death Penalty in English-Speaking Caribbean Countries**

The petitioners noted that although the English-speaking Caribbean countries have not applied the death penalty in over a decade, there are ongoing challenges to abolishing this, such as the regulation of the death penalty in national laws and the fact that people remain on death row. According to the petitioner organizations, the death penalty is allegedly used in a discriminatory fashion against women and other groups who are at particular risk, such as people with mental disabilities. They also drew attention to the violation of the rights of those who are on death row, particularly in terms of the amount of time they have spent there and the conditions in which they are held. They also noted that there have been violations of due process, particularly as a result of a lack of access to an appeal in these cases. Finally, the organizations asked the IACHR to visit Barbados, Guyana, and Trinidad and

Tobago to receive information on people who are currently sentenced to death. The IACHR stated that the death penalty is a violation of the right to life and must be abolished so that it cannot be applied under any circumstances. The IACHR also expressed its concern over people who are currently on death row in countries such as Trinidad and Tobago and Guyana. It reiterated its commitment to taking concrete measures to help states in the region abolish the death penalty.

#### **Hearing No. 19. The Situation of People Deprived of Freedom in Venezuela**

The petitioners expressed concern over the situation of people who are deprived of their freedom in Venezuela, which allegedly entails widespread violations of human rights. They also drew attention to the lack of official data on prison population numbers and stated that according to their own estimations, a total of 110,000 people are currently deprived of their freedom, 70% of whom are in pretrial detention and 8% of whom are women. They noted that despite the fact that police detention centers or cells are designed for temporary use and thus are unsuitable for housing people for prolonged periods of time, they are allegedly used on a permanent basis and thus violate the rights to life and personal integrity of those held there. Venezuela's delegate to the OAS said that the state is working actively to ensure that human rights are respected. The state expressed its commitment to guaranteeing rights and freedoms in light of the provisions of the National Assembly's Statute for the Transition to Democracy. The IACHR repeated its concern over the situation of people who are deprived of their freedom, particularly in relation to the high percentage of people who are in pretrial detention and the number of women who are in prison. It also expressed concern over the situation prevailing in police holding cells and the high levels of overcrowding. In addition, it stressed the importance of the information put forward by civil society for monitoring purposes, due to the lack of official data on this topic. Finally, the IACHR reiterated its interest in visiting the state of Venezuela.

#### **Hearing No. 20. Torture, Extrajudicial Executions, and Serious Human Rights Violations During State Repression in Venezuela**

Civil society organizations presented information on the serious human rights violations that have occurred in recent years in Venezuela. Specifically, they reported acts of torture and extrajudicial executions that are allegedly part of a state strategy to repress the population. Given the systematic nature of these violations, the organizations proposed that they represent crimes against humanity. They pointed out that the victims allegedly include both members of the armed forces and civilians and noted that at least 848 civilians have allegedly been brought before military courts. Likewise, the petitioner organizations stressed that these violations remain unpunished and that on many occasions, victims received threats to deter them from going to the Public Prosecutor's Office. Venezuela's delegate to the OAS expressed its solidarity with these victims and stated that the humanitarian crisis is continuing to worsen in different parts of the country. They also pointed out that the judiciary is not fulfilling its role as a guarantor of justice. The IACHR drew attention to the fact that the judiciary is not punishing those who perpetrated these crimes and insisted that the right not to be subjected to torture is absolute. The IACHR ended by emphasizing that there is ongoing impunity over serious human rights violations and that the state is reluctant to comply with the decisions and recommendations of international human rights mechanisms.

#### **Hearing No. 21. Violations of the Human Rights of Defenders in Guatemala**

The petitioner organizations who requested the hearing provided contextual information on the growing criminalization of human rights defenders in Guatemala, particularly those who defend the



environment and the land. They pointed out that this criminalization is implemented by means that include the filing of false complaints, the use of definitions of crimes that do not conform to the principle of legality, stigmatization, arrest warrants, and the use of pretrial detention. The organizations pointed out that in 2019 there were 402 attacks on human rights defenders, 277 of which were acts of criminalization. They also pointed out that the Guatemalan state does not currently have any mechanisms for providing comprehensive redress for human rights defenders who are criminalized and then acquitted of all charges. The state argued that since the IA Court's 2014 ruling "Defender and Others v. Guatemala," it has been making progress on drafting a public policy for the protection of human rights defenders. It also mentioned that it has a background document but acknowledged that it is facing challenges in building the trust needed to move forward with drafting and passing this policy in partnership with civil society. Finally, the IACHR called on the state of Guatemala to redouble its efforts to make progress on drafting and implementing the public policy in question and drew attention to the importance of it including a comprehensive reparation component for human rights defenders who have been criminalized and then acquitted.

### **Hearing No. 22. Indigenous Peoples' Right to Food and Water in Guatemala**

The organizations that took part in the hearing reported that the state of Guatemala does not guarantee access to or provide drinking water to indigenous populations, and also spoke out against the serious pollution of rivers and water sources that they have traditionally made use of. On this point, they noted that more than 26 rivers in the north of the country are polluted by business activities. This situation allegedly affects indigenous peoples directly and has a disproportionate impact on indigenous women: pollution, land grabbing, eviction, deforestation, agribusiness activity, monocropping, energy projects, and other sources of pollution are examples of the obstacles to their right to water and food. They also explained in detail how the state has responded to initiatives to defend these rights by criminalizing and using force against indigenous leaders and by initiating legal proceedings against them. The state of Guatemala expressed its intention to seek an inclusive dialogue to ensure that its standards on the issue are fully enforced. It called on civil society to work with it to protect the right to water and acknowledged that a law protecting this right needs to be passed, that there needs to be consensus on this, and that populations who are affected need to be involved in the drafting process. The IACHR was concerned by reports of how different business activities are allegedly impacting human rights such as access to water, a healthy environment, and food in Guatemala. It once again noted that it is the state's duty to guarantee that prior consultation with indigenous peoples takes place and that they participate in these processes. It also asked the state to guarantee the right to access land and the resources on this, on the understanding that the right to water is closely related to the right to a life of dignity.

### **Hearing No. 23. Freedom of Expression and Access to Information During Criminal Trials in Colombia**

The petitioner organizations reported that journalism on legal proceedings in the country remains at discretion of legal authorities, who prevent journalists from accessing and covering criminal trials on issues that are important to the general public. They observed that the tests to establish proportionality and necessity that are required by the country's legislation and international standards are not being properly applied by the authorities and that there are shortfalls in the instruments supporting these decisions. So far in 2019, journalists have had their access restricted in 21 cases. The state claimed that journalists enjoy full respect and are not subject to censorship in Colombia. It also emphasized the measures being taken to protect these rights through public programs to reduce the digital divide between citizens. The IACHR questioned the state on the merits of specific cases discussed by the

petitioner organization at the hearing. It underlined the importance of the right of access to information as a tool for enforcing and defending freedom of expression and as an instrument for social control and to combat corruption. The Special Rapporteur for Freedom of Expression (RELE) welcomed the state's efforts regarding online media and explained that the problem is not Colombia's legal framework but rather judges' interpretations of the alleged conflict between access to hearings where matters of public interest are at stake and the interests of individuals that the state is protecting. It reminded those present that judges are obliged to implement injury tests and raised the possibility of creating a directive that would provide guidelines for judges and inform them of standards on the matter.

#### **Hearing No. 24. Violence and the Situation of Indigenous People in Cauca Department, Colombia**

The petitioner organizations spoke out against the increase in acts of violence in Cauca department. Specifically, they discussed the increase in killings and threats against ancestral authorities and indigenous guards at the hands of organized armed groups in retaliation for their role in organizational processes to defend their rights. They stressed that Cauca department is the second-most militarized area in Colombia and expressed their concern over the state's announcement that it will be deploying troops there. They also noted the state's failure to comply with various points established in the Peace Agreement, including the chapter on ethnic issues and guarantees offered in relation to the voluntary substitution of illicit crops. The state argued that it is implementing a comprehensive, two-pronged strategy to address the situation in Cauca, which includes both social factors and security. It discussed the creation of the Cauca Social Plan, which seeks to have a positive impact on the community by creating economically productive activities. It also pointed out that 2,500 army troops will be arriving in the territory to fight organized crime. The IACHR noted that the exponential increase in these acts of violence calls for urgent responses on the part of the state. It also noted that the work of indigenous guards is fundamental to their communities and to protecting their territory. It urged the state to coordinate joint actions with communities to ascertain which protection measures are needed to guarantee their security and the personal integrity of their members.