

Annex to Press Release 55/20: 175th Period of Sessions

Hearing: Case No. 13.615—the Miskitu Indigenous Community at Tasbapounie; the Community of African Descent at Monkey Point; the Rama Indigenous People; and the Black Creole Indigenous Community of Bluefields v. Nicaragua

The case concerns the alleged violation of the rights of the people of the South Atlantic Autonomous Region (RAAS) as a consequence of the state of Nicaragua's approval of the construction project for the Nicaragua Grand Canal, allegedly without prior, free, and informed consultation. The purpose of the hearing was to hear a testimony from the petitioning party and to hear oral arguments from the parties on the merits of the case. The witness discussed the consultation process that the government of Nicaragua carried out. Their observations included the fact that the government did not follow the guidelines presented by communities and did not have independent technical assistance nor did the majority of community governments consent to the project. In their allegations, the petitioning party referred to the alleged usurpation of community territories by the state and the effects this allegedly had or could have had on community rights. The petitioning party also spoke out against the existence of "parallel" community governments with connections to the national government, which violated these communities' right to self-determination. The state indicated that the petitioning party is not an official legal representative of the communities in question as it is not an elected authority. It argued that the consultation process had lasted approximately two years and was based on a coordinated document prepared by the government of Nicaragua and approved by the governments of the communities concerned. The state representative also noted that Nicaragua has made more progress than any other country in the region toward recognizing the rights of indigenous people, specifically, returning their lands to them. The IACHR will continue to work on the case study for the Merits Report that it will adopt on this matter.

Hearing: Judicial Independence in Costa Rica

Petitioners argued that the adoption of a series of measures, regulations, and pressure from other state powers are affecting the independence of Costa Rica's judiciary. These issues include limiting the rights of workers in the judiciary and elderly retirees, irregularities in the process of appointing judges, budget reductions, the pressing of criminal charges against 14 judges, and the passing of laws on public finances and strikes. The state explained that some of these issues are still pending before the Constitutional Chamber and that it will wait for these rulings. It also noted that if the fiscal reform had not been implemented, this year's budget deficit would have reached 9.43% of GDP. The state representative also acknowledged that these issues deserve the state's full attention and underscored its support for human rights standards. The IACHR stressed that reform processes must include consultation and safeguard judicial independence.

Hearing: Gender and the Peace Agreements in Colombia

The petitioner organizations argued that it was crucial for the Peace Agreements in Colombia to be implemented taking into account the differentiated impact that the armed conflict had on girls,

women, and LGBTI people. In this regard, they highlighted the lack of progress that has been made on gender issues relating to the Comprehensive Rural Reform and the substitution of illegal crops. The petitioner organizations also reported a worsening of attacks against women human rights defenders and spoke out against the obstacles preventing LGBTI people from participating fully in Colombian society. They also stated that the gender approach included in the Peace Agreement went beyond the binary reading presented by the state at the hearing. With regard to access to justice, the organizations called for specific measures on sexual and reproductive violence and violence prompted by victims' sexuality during the armed conflict. The state acknowledged the importance of women's economic empowerment and political representation as the peace process is implemented. It referred to the authorities and mechanisms that have been created to promote the implementation of the gender approach in the agreement and the strategies it has developed to monitor compliance with this. The IACHR expressed its concern over the increasing violence against women defenders and once again expressed its willingness to support the state in tackling the situation and making headway on monitoring the implementation of the Peace Agreement.

Hearing: Case 13.627—Carlos Alberto Moyano Dietrich v. Peru

The case concerns the alleged arbitrary and illegal dismissal of Mr. Carlos Alberto Moyano Dietrich in 1986 while he was a captain in the Civil Guard (now the National Police), as a consequence of Law 24.294 on the reorganization of the police force. As a result, he became unable to exercise his right to a pension. The purpose of the hearing was to hear oral arguments from the parties on the merits of the case. First, the petitioning party discussed Mr. Moyano's dismissal, which it alleged was arbitrary, without prior notice, and contravened his right to job stability. It also noted how these events had affected the alleged victim's life, impacting not just his professional career but also his family life and reputation, as the dismissal was reported in the media. It also alleged that a gag rule was approved after the victim's dismissal that prevented officers in the Civil Guard from pressing charges before the Constitutional Court to demand that their rights be restored, which deprived Mr. Moyano of his legal rights. Finally, the petitioning party alleged that the state violated the right to equality before the law because the state of Peru had granted the right to a pension to other people in identical circumstances to those of Mr. Moyano. The state argued that the petitioning party had only called Mr. Moyano's lack of a pension into question, not his dismissal. In this regard, it indicated that Mr. Moyano did not meet the minimum requirement of 15 years of service to be eligible for a retirement pension, which is why his legal action was rejected. It also noted that the cases mentioned by the petitioning party do not share the characteristics of this case and argued that there are no legal criteria that support Mr. Moyano's attempt to access a retirement pension. Finally, the state emphasized that the existence of unfavorable decisions does not imply that the rights enshrined in the American Convention have been violated. The IACHR will continue to work on the case study for the Merits Report that it will adopt on this matter.

Hearing: Case 13.388—Fernando Aguirre et al. v. Ecuador

The case concerns the dismissal of 53 congresspeople from the National Congress of Ecuador in 2007 by the Supreme Electoral Tribunal, which was allegedly implemented unconstitutionally and arbitrarily, violating their political rights, and causing other effects. The purpose of the hearing was to present a statement from the alleged victim, Mr. Alfredo Serrano, a former congressman who was

dismissed from the National Congress, and to present the expert opinion of Libia Rivas Ordóñez, on behalf of the state. The parties were also able to present their oral arguments on the merits of the case. Mr. Serrano began by describing the events of March 7, 2007, which in his view marked the beginning of the state's aggression toward and persecution of the alleged victims. He also noted that after being dismissed, the alleged victims filed different legal appeals, but the Constitutional Court was the only authority to rule in their favor, although this ruling was then revoked by the same court when it was reconvened. Mr. Serrano noted that he was disqualified from holding political office for a year and that prison sentences were issued for 24 of the 56 congresspeople, including Mr. Serrano himself. These events affected his political career and had a personal impact on him and his family. Libia Rivas Ordóñez provided a constitutional-legislative analysis of constituent power, the constitutional processes that have taken place in Ecuador since 1979, and, in particular, the process of convening the National Constituent Assembly in 2007. She also described Constituent Mandate No. 1, through which the powers of the Constituent Assembly were established and through which it was determined that the National Congress would enter a period of recess until the new constitution had been passed. In its allegations on the merits of the case, the petitioning party argued that the dismissal of the congresspeople was illegal and arbitrary, that it did not respect due process, and that the alleged victims were denied access to justice. They also pointed out that the Constituent Assembly was convened after the alleged victims were dismissed and that they therefore considered it irrelevant to refer to the process of passing the new constitution in this case. The state put forward three main arguments: the context at the time, the specific events, and the rights in dispute. The state argued that the process of passing the new constitution was relevant to the case because of the political and social context of the time, as constitutional processes in Ecuador have always entailed a certain degree of conflict. It also argued that there is no doubt that political processes may entail modifications to some authorities, which does not in itself imply a violation of international obligations. The IACHR expressed the importance of respect for judicial guarantees during processes such as the one described in this case and put itself at the parties' disposal for exploring the possibility of a friendly settlement. The IACHR will continue to work on the case study for the Merits Report that it will adopt on this matter.

Hearing: Violations of the Human Rights of People Who Are Deprived of Their Freedom

The petitioner organizations indicated that prison overcrowding is so extreme in Honduras that facilities are operating at 73% over their capacity. They indicated that in July 2019, the country's prison population was 21,610, while the capacity of penitentiary system was estimated to be below 11,000 in 2018. This has allegedly given rise to extreme situations such as in La Esperanza penitentiary in Intibucá department, which has an overcrowding rate of 587%. They also spoke out against the continued militarization of the prison system and discussed the challenges posed by the state of prison emergency established by Presidential Decree PCM-068-2019. The state noted that the decree in question complies with the requirement that it be temporary, since it is only in force for six months, and the exceptionality requirement, since it declares that the state of emergency is limited only to the events of the last quarter of 2019. The state representative also noted that the measure complies with the requirement of proportionality, as it is an exceptional case that respects the dignity of people who are deprived of their freedom and guarantees them access to services. In

this regard, the state representative was of the opinion that the adoption of the state of prison emergency was an appropriate, timely measure that complies with the country's international obligations on this matter. The state representative also noted that Honduras had reduced overcrowding rates by 46% between 2012 and 2019 and was making progress and implementing alternative measures to pretrial detention, such as the use of wristbands for minor offenses. The IACHR pointed out the importance of addressing the use of pretrial detention, including by implementing alternative measures to this. Finally, the IACHR raised the possibility of conducting a visit to the country to review the situation of people who are deprived of their freedom there.

Hearing: Impacts on the Right to Education, Academic Freedom, and University Autonomy in Venezuela

The petitioner organizations noted that academic freedom and autonomy have been affected at 85% of Venezuela's universities, particularly due to interference in student elections, the arbitrary appointment of authorities, the funding and autonomy of universities at the national level, continuous reprisals against peaceful protests at university, and the arbitrary arrest of students. They claimed that at least 40% of university teaching staff have been forced to migrate due to the low or nonexistent remuneration they receive, which is below US\$8 per month. These circumstances particularly affect retired older people, who lose access to health services when they retire and whose pensions are lower than the contributions they made throughout their working life. With regard to how this affects children and adolescents, more than 70% of students do not currently attend school regularly and 15% are severely behind at school due to a lack of nutrition and health services. The National Assembly of Venezuela's representative before the OAS requested that the IACHR continue exercising its various mandates and Venezuela. The IACHR repeated its concern over the situation of students and teachers who have been forced to migrate due to the humanitarian crisis, levels of repression in the country, and the impossibility of continuing their education or working in Venezuela. It also underscored the fundamental role played by universities and safeguards for academic freedom and autonomy within democratic systems.

Hearing: The Humanitarian Emergency in Venezuela

The petitioner organizations noted that the origins of the current humanitarian emergency in Venezuela lies in the undermining of democratic institutions, which harms all aspects of all people's lives, especially those in vulnerable situations. The petitioners reiterated that Venezuela does not have the capacity to remedy this situation and that the rights to food and health are being seriously impacted by it. As a consequence, many families in Venezuela have had to change their diets, and both the quality and quantity of food available to them fall short of their needs. With regard to healthcare services, they claimed that at least 85% of medical centers have been affected by a lack of basic inputs and the deterioration of infrastructure, which has led to an increase in maternal mortality and the constant spread of sepsis in neonatal units. The migration of doctors to other countries and the fact that essential medicines are now priced in US dollars are having a serious impact on the health of Venezuelan families. The National Assembly of Venezuela's representative before the OAS reiterated his hope that Venezuela would ratify all the instruments of the Inter-American System of Human Rights, including the Protocol of San Salvador. The IACHR expressed concern over the lack of visibility of indigenous people and people of African descent in the context

of the humanitarian crisis in Venezuela. Likewise, the IACHR reported that during its on-site visit to Cúcuta it received several testimonies from Venezuelans who migrated to receive essential healthcare.

Hearing: Allegations of Restrictions on Freedom of Expression in Brazil

The petitioner organizations reported an increase in violence and stigmatization against media workers and media outlets in Brazil. In this regard, they drew attention to public attacks by high-ranking state authorities on journalists and media workers and mentioned the specific cases of Patricia Campos Mello, Glenn Greenwald, and Vera Magalhaes as examples of this behavior. They also discussed the fact that official advertising revenue goes to media outlets with ties to the current government. The petitioner organizations drew attention to the criminalization of protest and restrictions on cultural freedom in Brazil, including cases of censorship. The state representatives underscored the current government's respect for freedom of expression and, as an example, drew attention to its Program for the Protection of Human Rights Defenders, Media Workers, and Environmentalists, and noted that measures had been established to ensure defenders and media workers can go about their work safely. They also stated that the federal government has not implemented censorship and that differences in opinion between high-ranking authorities and the press are part of democratic debate. Furthermore, the IACHR highlighted the importance of freedom of expression as a way to guarantee the exercise of other rights and expressed its concern over restrictions on artistic expression, derogatory speech toward women, and impunity around the murders of journalists. The Office of the Special Rapporteur for Freedom of Expression stressed that protection policies are only effective if they go hand-in-hand with a prevention policy, including public acknowledgment of the work that media workers do.

Hearing: Police Violence Against People of African Descent in Rio de Janeiro and São Paulo, Brazil

The petitioners expressed their concern over the serious human rights violations that have taken place as part of the public security policy adopted by the state of Brazil, which is based on the excessive and systematic use of force and the criminalization of cultural expression within marginal communities. They discussed the police operation in Paraisópolis, São Paulo, which led to the death of nine young people, and noted that operations of this sort are commonplace in Brazil among marginalized communities and communities of people of African descent. The state emphasized how committed it is to promoting ethnic and racial equality in the country and drew attention to training measures it had implemented for public security agents on this matter. It also highlighted the legal and procedural mechanisms available for access to justice in such cases. The IACHR stressed the importance of collecting disaggregated data on acts of violence. In the same vein, it noted that it was important to provide timely mechanisms for access to justice for victims.

Hearing: The Situation of Indigenous Peoples in Bolivia

The petitioner organizations put forward information on the situation of the members of the Qhara Qhara Nation and on violations of indigenous peoples' human rights, especially concerning their territories and the right to collective property, the lack of respect for their traditional forms of collective organization, and the legal action they have taken to defend these rights. The

representatives of the state of Bolivia acknowledged the country's historic debts to the Qhara Qhara community and pledged their commitment to working to address their demands. The IACHR thanked the parties for the information they had provided and expressed its concern over this discrimination toward a section of the population, the violation of the human rights of indigenous peoples, and especially those of the Qhara Qhara community and women and children.

Hearing: The Human Rights Situation in Bolivia

The Ombud's Office of Bolivia presented information on the human rights violations that have been taking place in the country since the 2019 electoral crisis. The petitioners also reported violations of freedom of expression and spoke out against the harassment of human rights defenders and the legal persecution and criminalization of social protest. The representatives of the Bolivian state once again pledged their commitment to the victims of the Senkata and Sacaba massacres. They also discussed the meetings they have held with victims' families and expressed their openness to international scrutiny around these events. The IACHR expressed its concerns over the social divide within the country and decrees 4.078 and 4.100, which were passed by the current authorities. Referring to Decree 4.078, the IACHR noted that there is no way to exempt those who have committed human rights violations from responsibility. With regard to Decree 4.100, it underlined the standards that govern comprehensive reparation for victims. Finally, the IACHR highlighted how essential freedom of expression is to democratic rule.

Hearing: Human Rights Violations During the Elections in Bolivia

The Plurinational State of Bolivia, which requested the hearing, presented information regarding this historic episode of human rights violations in the country and presented fragments of the report issued by the OAS Secretariat for Strengthening Democracy (SSD) and the Department of Electoral Cooperation and Observation (DECO), which discusses a series of intentional operations that made it impossible to know the exact breakdown of votes in the October 2019 elections. The state representatives also expressed that they were open to international scrutiny and committed to the IACHR plenary's on-site visit in August 2020. Representatives of civil society organizations spoke out against physical, psychological, and sexual torture and other human rights violations that have been occurring systematically in the country. They presented information on violations of the rights to protest and freedom of expression that have been taking place in Bolivia since the beginning of the electoral crisis. The IACHR reminded those present that torture is prohibited under any circumstances and drew attention to inter-American standards regarding comprehensive reparation for victims. It also stressed the importance of the work that the Interdisciplinary Group of International Experts (GIEI) is engaging in to help institutions clarify events.

Hearing: The Human Rights Situation of Venezuelan Migrants in Ecuador

The petitioner organizations presented information that shows that Venezuelans in Ecuador face multiple barriers to regularizing their status and accessing state services. Some of these barriers are legal and others are economic. They also expressed their concern over episodes of xenophobia and messages from high-ranking government authorities stigmatizing Venezuelans. They acknowledged that the scale of the current wave of migration from Venezuela is greater than

expected but they noted that this situation is unlikely to change, which implies that states need to embrace inter-American standards on migration. The representatives of the Ecuadorian state noted that they share the petitioners' concern over xenophobia and are developing programs to improve the inclusion of Venezuelans in Ecuadorian society. They also noted that around 200,000 Venezuelans have been able to access the registration system regardless of their migration status, which will enable the country to understand migrants' needs and design public policies to better integrate them into society. The IACHR stressed how important it was for states to share the responsibility for protecting the rights of migrants from Venezuela.

Hearing: Refugee and Asylum Systems and Humanitarian Situations in the Americas

The UNHCR representatives for the Americas informed the IACHR of their main concerns in assisting the massive migration flows in the region. They stated that it is important for procedures for seeking asylum to comply with guarantees of due process without any kind of discrimination. It is also essential for refugee status to be recognized under the Cartagena Declaration, which covers all people who flee due to widespread violence, internal conflicts, and massive human rights violations. The UNHCR representatives also underscored that all procedures for seeking asylum should be free of charge to guarantee that all people who need asylum can access it. The IACHR also drew attention to the Inter-American Principles on the Human Rights of All Migrants, Refugees, Stateless Persons, and Victims of Trafficking and called on the countries of the Americas to adopt these.

Hearing: The ESCERs of the LGBTI Population in the Americas

The petitioner organizations drew attention to the different administrative and legal barriers that trans children and adolescents face to having their gender identity recognized in the Americas. They noted that this results in violations of their economic, social, cultural, and environmental rights (ESCERs), such as the rights to education and health. The petitioners particularly emphasized the mental health impacts that these barriers have and highlighted the risk of suicide among children and adolescents when they are unable to develop and freely express their internal experience of gender. They also noted that the lack of legal parental recognition within LGBTI families prevents them from effectively enjoying their human rights. They drew attention to how children from LGBTI families are prevented from enrolling in educational establishments and from being included in insurance policies held by people with whom their parental ties have not been legally recognized. The IACHR expressed its gratitude for being able to address the right to gender identity and expression from a crosscutting perspective and once again pledged its commitment to working to further the rights of trans children from the perspective of the best interests of the child. It also drew attention to states' obligation to educate children on matters pertaining to sexual identity and orientation and to guarantee all people—particularly trans and gender-diverse people—the right to freely develop their personalities from the earliest stages of human development.

Hearing: The Human Rights Situation of Women, Young People, and Activists in Cuba

The petitioner organizations described how the human rights of women and young activists in Cuba are being systematically and repeatedly violated. According to these organizations, 28% of those being persecuted in the country are children and adolescents. They argued that this population is

being persecuted through a pattern of harassment, threats, beatings, disqualification, the creation of fraudulent records, arbitrary detentions, torture, violation of the right to free transit by prohibiting them from leaving the country, violations of freedom of thought, freedom of expression, freedom of association, and other violations. The IACHR expressed its regret that the Cuban state was absent from the hearing and expressed concern that dissent is criminalized within Cuba's legal and constitutional framework. It expressed its solidarity with activists in Cuba and made an urgent call for direct communication with civil society organizations to continue monitoring human rights violations in the country.

Hearing: Protecting Children in Mexico: Forced Recruitment and Disappearances

The petitioner organizations expressed concern over the cases of missing children and adolescents in Mexico and the extreme violence the country is experiencing. It reported that over 11,000 children have disappeared and noted that the majority of these are girls. It also noted a 100% increase in sexual violence and femicides between 2018 and 2019. It also drew attention to the increase in the forced recruitment of children to carry out criminal acts, who are then subjected to confrontational experiences with public security forces. The state acknowledged that children are continuing to disappear in the country but noted that progress had been made in locating 36,695 children, 75% of whom were alive. The Mexican state pledged its commitment to adopting a Standardized Search Protocol in the near future, with a special focus on protecting children and adolescents. The IACHR drew attention to the institutional progress that has been made and noted that Mexico has pioneered the creation of national protection systems. However, it once again argued that this system needs to be brought in line with the reality of life in the country. The IACHR urged the state to ratify the Third Optional Protocol to the Convention on the Rights of the Child and mentioned the need to follow up on commitments made in previous hearings.

Hearing: Extraordinary Forensic Identification Mechanism, Mexico

The petitioner organizations discussed the process of creating and implementing the Extraordinary Forensic Identification Mechanism (MEIF) and the main challenges facing this. They expressed concern over the financing for the MEIF due to the large number of human remains that need to be identified and noted the need to guarantee the MEIF's technical and scientific independence and for its reports to be included in criminal investigations. They also stressed the need for the MEIF to be provided with international technical assistance and for it to be made obligatory for district attorneys' offices to collaborate with it. The state noted that the creation of the MEIF contributes to Mexico's justice system and pledged to approach the appointment of officials to the coordination group for implementing it with the utmost seriousness. It announced that a budget has been assigned to this process as part of a scheme to strengthen the MEIF, notably the technical and scientific autonomy it needs to address disappearances so as to strengthen the human right to be searched for. The IACHR emphasized the importance of creating this coordination group for the MEIF to be effective and for international forensic standards to be taken into account to guarantee its independence and that it can operate effectively.