



Summaries of Public Hearings

Annex to Press Release 41/23 on the
186th Period of Sessions

Public Hearings

Fiscal policy and safeguards for economic, social, cultural, and environmental rights in the Americas

The organizations who requested the hearing stressed the need for States to apply a human rights perspective—and particularly an approach that takes into consideration economic, social, cultural, and environmental rights—to all fiscal and other economic policies, as a necessary way to address systemic inequalities in the Americas. They therefore called on the IACHR and its Special Rapporteurship on Economic, Social, Cultural, and Environmental Rights to continue to develop inter-American standards concerning fiscal policies in the region and to monitor compliance with those standards. In particular, they expressed their interest in the approval of a resolution that the Special Rapporteurship is working on in this regard. The organizations who requested the hearing also called for further developments in this field, noting that Commission standards are important and that the Special Rapporteurship can make major contributions. The IACHR noted that this is an important area to ensure the protection of human rights in the Americas and that the current challenges require an intersectional, differentiated perspective that pays particular attention to the impact of corruption and adopts a gender perspective in implementation efforts.

Follow-up of precautionary measures granted to individuals who are deprived of liberty in Venezuela

The representatives and families of beneficiaries of IACHR precautionary measures reported appalling conditions of detention, including torture and other forms of cruel treatment, isolation in punishment cells, irregular prison transfers, and bans on visits. They further reported that some beneficiaries have serious health problems and are not getting the medical care they need, sometimes even despite court warrants mandating treatment. Although a few detainee releases were reported, beneficiaries' representatives and families denounced the persistence of unreasonably long pretrial detentions for most detainees and alleged that the judiciary tolerates human rights violations. There were also reports of harassment and prosecution of detainees' families and representatives, including one attempted kidnapping. The Commission expressed its solidarity and denounced the failure to comply with the applicable standards in this matter. The IACHR further stressed the lack of effective legal mechanisms, given that there is no judicial independence in Venezuela, and noted the challenges that beneficiaries face even once they are released from prison. The IACHR highlighted the State's responsibility as the party in charge of protecting the rights of individuals who are deprived of liberty and stressed its own commitment to further supporting beneficiaries and monitoring their conditions.

The right to information of families of victims of forced disappearance in the Americas

The organizations who requested the hearing said there are major challenges linked to the failure to investigate cases of forced disappearance and to punish the people responsible for them, which perpetuates impunity. They also stressed that impunity is made worse by restrictions in access to archives concerning serious human rights violations. The organizations who requested the hearing said that, in many cases, military documents had been declassified following campaigns in search of justice for victims who demanded public access to those documents. In particular, they mentioned impunity in cases concerning Colombia, El Salvador, and Guatemala. The organizations who requested the hearing stressed that the fact that forced disappearance persists shows that States are failing to prevent it and that the available urgent search mechanisms are proving ineffective. A United Nations expert noted that profound challenges remain to solve cases involving serious human rights violations and that timely access to information is essential to establish the truth and to ensure justice and reparation for victims. In this respect, he said it is particularly important for States to take specific document declassification measures. The IACHR noted that access to information concerning serious human rights violations is a necessary precondition to ensure effective compliance with State obligations to ensure investigation, justice, and reparation for victims, and that the Inter-American Human Rights System has clear standards on the matter. The Commission also stressed the importance of implementing declassification guidelines with a gender perspective. The IACHR commended victims' associations, and especially mothers who search for their missing children, on their crucial efforts.

The human rights of the Taino and Maroon indigenous peoples in Jamaica

The organizations who requested this hearing expressed their concerns regarding the lack of recognition of the rights of indigenous Taino and Maroon peoples in Jamaica. In particular, the organizations provided information regarding the failure to recognize indigenous peoples and their rights and customs, measures to police Maroon communities, and deteriorating relations with the State. These organizations noted that Jamaica's Constitution does not recognize or protect the rights of indigenous peoples. The State noted that the Jamaican Constitution protects the fundamental rights and freedoms of all Jamaicans and asked to provide a detailed response in writing. The State also said that it is willing to meet with the indigenous communities to discuss their concerns. The IACHR encouraged the State to begin the process of meaningful engagement with indigenous communities, with the aim of recognizing their rights and addressing their concerns. The Commission welcomed further written submissions by participants on these issues.

Case 11,888—Alfredo Acero Aranda *et al.* (Navy network) v. Colombia

This case concerns the alleged responsibility of the Colombian State for the actions of the military intelligence network known as Network 7, operated by the National Navy. This network allegedly operated over the period 1991–1993 in the department of Santander and is said to have perpetrated homicides and other acts of violence against victims including trade-union members, journalists, peasant leaders, human rights defenders, and political leaders. The Commission heard the testimony of Alirio Uribe and also the allegations made by the parties concerning the merits of this case.

The petitioning party said that intelligence networks were created in line with the National Security Doctrine, with a view to fighting “domestic enemies,” and that Network 7 was a group of killers coordinated by the National Navy who murdered more than 70 people. The petitioning party alleged the lack of a diligent

investigation of these events and noted that military justice enabled impunity. The petitioning party also stressed the lack of reparation. It alleged violations of the rights to life, humane treatment, freedom of thought and expression, and freedom of association, as well as of the rights to a fair trial and to judicial protection, concerning State obligations to respect and protect these rights and the State's duty to take relevant action within the framework of domestic law. The State expressed its solidarity with the pain of the affected families. It highlighted the role of the Truth Commission, which investigated the actions of intelligence networks and particularly of Network 7 and established this was a death squad that used public money to fund paramilitary groups. The State also mentioned internal processes and noted that Colombia's military criminal justice institutions had in fact investigated these events. The State noted that six victims in this case had been recognized as victims by the Inter-American Court of Human Rights in its decision on the Case of Members and Militants of the Patriotic Union v. Colombia. The State said it was willing to seek a friendly settlement in this case. The Inter-American Commission will address the merits of this case in a report.

Human mobility context with an ethnic-racial perspective (Americas)

The organizations who requested the hearing stressed that, in human mobility contexts, historic discrimination, violence, and heightened vulnerability disproportionately affect Afro-descendant and indigenous individuals and members of other social groups who have suffered discrimination on ethnic-racial grounds. This situation forces these individuals to move irregularly and affects their enjoyment of their rights during the migration cycle, when they face legal and *de facto* hurdles to access protection. The organizations who requested the hearing stressed the need for public policies with an anti-racist focus that are applied on a regional scale. The IACHR noted its solidarity with individuals in human mobility contexts who are victims of human rights violations. The Commission thanked the people who delivered their testimony at the hearing and stressed its concern about the increase in mixed migration flows in the Americas, which it blamed on various factors. The IACHR denounced the lack of regional agreements to address forced displacements based on the principle of shared but differentiated responsibility concerning the obligations of all States involved in the migration cycle (origin, transit, destination, and return).

Sexual violence against women and girls in Haiti

Civil society in Haiti stressed the serious, systematic sexual violence that particularly affects women and girls in the country, in a context of impunity and a lack of mechanisms to assist victims. They also noted that the existence of armed groups has a direct effect on the emergence of violence and serves as evidence of the impunity context. The Haitian State acknowledged and confirmed its commitment to the fight against sexual violence and highlighted the links between sexual violence and the existence of areas of the country that are controlled by armed gangs. The IACHR called for the creation of protection mechanisms and mechanisms to strengthen domestic institutions in Haiti and asked the State to address sexual violence against women and girls as a national emergency. The Commission noted its own commitment to helping Haiti identify its needs and to cooperating with the country—through the IACHR's various mechanisms—to develop effective institutions to prevent sexual violence and to provide protection, especially to girls and young women.

Reproductive rights and various forms of violence against women and girls in Brazil

The organizations who requested the hearing reported the systematic violation of the sexual and reproductive rights of girls and women in Brazil. In particular, they highlighted high rates of maternal mortality, the impact on reproductive health of the indiscriminate use of agrochemicals in some areas of the country, and lack of access to legal abortion in cases of sexual violence, which is particularly severe for girls and female adolescents. These organizations also noted that these issues disproportionately affect girls and women who are Afro-descendant and/or poor and/or who live in rural areas. The State admitted that women and girls have difficulties to access these rights. It committed to strengthening its gender policy and to developing indicators of obstetric violence and maternal death—particularly among Afro-descendant women and girls—as well as to developing a plan for cooperation to address structural racism. The IACHR welcomed the State’s openness and stressed the need to take measures to assist specific groups, especially girls and adolescents. The Commission offered the State technical assistance and expressed the will to visit Brazil.

Case 12,781—Indigenous peoples in Raposa Serra do Sol v. Brazil

This case concerns the alleged responsibility of the State of Brazil for violations of the human rights of the Ingarico, Macuxi, Patamona, Taurepang, and Wapichana indigenous peoples. These human rights violations were allegedly caused by delays in the demarcation and titling process regarding their ancestral territory (the Raposa Serra do Sol territory) and by demarcation and titling proceedings that allegedly failed to comply with the applicable international standards. This case concerns the State’s alleged international responsibility for attacks on the lives and personal integrity of members of these indigenous peoples, allegedly perpetrated by rice farmers and other private entities who occupied the Raposa Serra do Sol territory. The case also addresses alleged violations of the rights to freedom of movement and residence, the right to religious freedom, and the rights to water, a healthy environment, and adequate food of the alleged victims, caused by the actions of private agents who prevent them from, among other aspects, accessing water and performing their religious rites.

The Commission heard the allegations made by the parties concerning the merits of this case. The petitioning party provided information about acts of violence that were allegedly perpetrated against indigenous communities and about the impact of applying the Temporal Landmark thesis to indigenous territories. The State provided information about the context faced by indigenous peoples in Brazil and about the measures it is currently implementing to protect their rights and improve their situation. The Commission will continue to assess the allegations and will eventually address the merits of this case in a report.

Protection of human rights defenders and journalists in the Americas

The organizations who requested the hearing informed the Commission of the high number of acts of violence committed against journalists and rights defenders in the Americas. In particular, they noted the worrying number of murders of journalists in the region in 2022. The organizations who requested the hearing further denounced that stigmatizing comments made by the highest authorities of various States have caused concern because they increase the risks faced by journalists. These organizations noted that criminalizing journalists has been a recurring way to prevent freedom of the press, particularly for journalists who investigate acts of corruption. They noted the differentiated impact of attacks on women who are journalists. Countries with national mechanisms in place to protect rights defenders and journalists reported on the various hurdles they face to attain effective implementation. These include the lack of the budget and the qualified staff required to respond to high

expectations placed on those mechanisms, the lack of political will, and the lack of adequate coordination among the various State institutions who interact with these mechanisms.

The IACHR noted its alarm about the significant violence faced by journalists and rights defenders. In particular, the Commission noted that the Americas are considered the world's most dangerous region for the defense of human rights. The IACHR stressed the need to investigate these events and to examine the causes and consequences of violence against journalists and rights defenders. The Commission further stressed its willingness to keep assisting civil society organizations and mentioned several future projects that might encourage dialogue between States and civil society.

The right to freedom of movement of individuals in Cuba

The organizations who requested the hearing informed the Commission of several measures used by the Cuban State to restrict Cubans' domestic and international mobility based on their political opinions and their advocacy for human rights. These practices include denying entry into Cuba to Cuban nationals who are abroad, applying regulations based on the Migration Act to restrict exit from Cuba, and forced exile. These organizations noted that all these practices entail multiple human rights violations, including family separations and the imposition of an irregular migrant status. No representatives of the State of Cuba attended the hearing.

The IACHR said that the repressive practices reported by civil society show a violation of the right to freedom of movement and also a serious violation of rights linked to nationality. The IACHR Rapporteur for Freedom of Expression stressed that these restrictions are imposed as punishment for the exercise of freedom of thought and expression and that they are intended to inhibit all Cubans from expressing themselves.

Threats on judicial independence in Central and South America

The organizations who requested the hearing told the Commission about various serious concerns and threats that are allegedly endangering judicial independence in several countries in Central and South America. These organizations noted that some countries need to enable effective and transparent careers in the judiciary that are based on competition, and that these countries also need to develop judicial councils that put an end to the current concentration of power and decision-making within the highest courts of justice. The organizations who requested the hearing highlighted that the lack of an appropriate budget is currently affecting the work of the courts. They noted that, in some countries in Central and South America, the judiciary is being institutionally weakened. This process allegedly entails dismissals and unjustified transfers of judicial officers and a criminalization of the activities of judicial officers who have exercised their independence, who are being subjected to unwarranted criminal procedures.

The IACHR noted with concern the threats faced by judicial officers, from stigmatization of their work to abuse of criminal law to punish them for their work. The Commission stressed that ensuring judicial independence in Central and South America requires compliance with a few essential aspects, like recruitment and appointments processes that reflect international standards, safeguards of independence on the job, and appropriate dismissal proceedings.

Progress and pending challenges in forensic searches in Mexico

The State presented the measures it had taken and the progress it has made in recent years in the search for missing persons and the mass identification of human remains. These measures include the development of a general law concerning forced disappearance and the creation of institutions like the Extraordinary Forensic Identification Mechanism, as well as efforts to strengthen domestic capacity, the operations of the National Bank of Forensic Data, and the clandestine grave registry. The State also noted the pending challenges and requested a regional hearing on public policies concerning mass searches.

The organizations who took part in the hearing acknowledged progress made concerning the search for missing persons. However, they noted restrictions of victim family participation in the development of a search policy, as well as the inefficiency and poor coordination of the relevant State actors, which cause revictimization. These organizations also pointed to the lack of mechanisms with transnational perspectives and of differentiated mechanisms to search for missing migrants. The IACHR noted the work done and the will shown by the State to respond to the crisis within Mexico. However, the Commission stressed the need to ensure better cooperation among institutions and to develop a clear public policy that engages families.

Case 13,097—Inmates killed at Magdalena prison v. Argentina

The petitioning party said the State of Argentina is responsible for the deaths of 33 individuals who were deprived of liberty in a fire at Magdalena prison in 2005. The petitioning party said that the fire was caused by a hardline State policy that overcrowded prisons in the province of Buenos Aires with individuals who were in pretrial detention. The petitioning party said overcrowding is structural and has persisted for decades, and it requested reparation measures and efforts to ensure non-recurrence.

The State acknowledged violations of the rights to life, humane treatment, a fair trial, and judicial protection. It reported on the measures that had already been adopted to solve structural problems. The State proposed the search for a friendly settlement in this case, and the petitioning party accepted the proposal. The IACHR highly commended the State on its admission of responsibility and it commended the petitioning party on its openness for dialogue. The Commission stressed that it is willing to support this friendly settlement process and to monitor on the ground the actions taken by the State.

The right to an identity of trans persons in El Salvador

The organizations who requested the hearing denounced that El Salvador's refusal to recognize gender identity exposes trans, non-binary, and gender diverse persons to violence, discrimination, and violations of economic, social, and cultural rights. This has caused the forced displacement of many trans women. These organizations also noted challenges for the rule of law, including the failure to implement court warrants in favor of trans persons. Specifically, they mentioned a decision made by the Constitutional Chamber in February 2022, ordering that the Legislative Assembly should take all legal action necessary to ensure every person's first name. A year later, compliance was yet to be attained. The organizations who requested the hearing noted the cases of several registry officers who had filed writs of amparo to avoid complying with court warrants ordering name changes in favor of trans persons. These organizations also denounced lack of dialogue with the State, as well as a series of rollbacks concerning the rights of LGBTI persons.

The IACHR was disappointed that the State of El Salvador failed to take part in the hearing and noted that hearings entail an opportunity for dialogue. The Commission said that it was concerned about the failure to enforce the economic, social, cultural, and environmental rights of trans persons, and stressed that most live in poverty. The IACHR also noted the allegations of violence and abuse perpetrated against trans persons during El Salvador's state of emergency and the hate speech they are subjected to. The Commission stressed its willingness to continue to monitor the recommendations it has made to the State and expressed its solidarity with trans, non-binary, and gender diverse persons in El Salvador.

The situation of human rights of the Garifuna people in Honduras

The organization who requested this hearing reported on the human rights challenges faced by Garifuna communities. Rights violations are linked to land invasions, growing extractive and tourist projects, and instances of criminalization, disappearance, murders, and other forms of violence against members and authorities of the Garifuna people, although the Inter-American Court of Human Rights has ordered the restoration of their rights. The State reported on measures taken to address the complaints of the Garifuna people and to protect the human rights of vulnerable groups. The State further stressed institutional coordination efforts to ensure compliance with Inter-American Court decisions and expressed its commitment to complying with IACHR recommendations. The Commission requested information about concrete measures taken to prevent violations of the rights of members of the Garifuna people, including threats, discrimination, and assault. The IACHR thanked the State for its good disposition and stressed the importance of participation and consultation with the Garifuna people in connection with all State initiatives affecting them.

Violations of the right to nationality in Nicaragua

Various organizations and victims denounced the human rights violations committed by the State of Nicaragua over the past five years. They noted new measures, like the arbitrary deprivation of Nicaraguan nationality, property, and pensions, in the framework of a widespread policy to persecute individuals who are considered government critics. These organizations and individuals reported on the conditions of detention that the 222 individuals who have recently been released from prison were subjected to. In this context, they expressed their concern about the situation of Bishop Rolando Álvarez and other individuals who are currently being arbitrarily deprived of liberty. The IACHR expressed its solidarity with Nicaraguans and thanked the organizations and individuals who took part in the hearing for their testimony. The Commission further stressed its concern about hurdles for family reunification and for the protection of stateless refugees. The IACHR called on the State of Nicaragua to respect the human rights of Nicaraguans and called on all States to welcome individuals who require shelter, particularly those covered by treaties on statelessness. Finally, the IACHR stressed its commitment—through its Special Monitoring Mechanism for Nicaragua (MESENI)—to continuing to monitor the situation in the country.